

CALIFORNIA COASTAL COMMISSION

NORTH COAST DISTRICT OFFICE
710 E STREET • SUITE 200
EUREKA, CA 95501-1865
VOICE (707) 445-7833
FACSIMILE (707) 445-7877



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Staff:	Melissa B. Kraemer
Staff Report:	October 3, 2008
Hearing Date:	October 17, 2008
Commission Action:	

STAFF REPORT: APPEAL**DE NOVO**

APPEAL NUMBER:	A-1-DNC-07-036
APPLICANTS:	Aadam & Tamara Trask
AGENTS:	Lee Tromble Engineering Galea Wildlife Consulting, Attn: Frank Galea
LOCAL GOVERNMENT:	County of Del Norte
DECISION:	Approval with Conditions
PROJECT LOCATION:	At 700 Berry Street, near Crescent City, Del Norte County (APN 120-035-02).
ORIGINALLY APPROVED PROJECT DESCRIPTION:	Construction of a 3,424-square-foot (1,696-square-foot footprint), maximum 25-foot-high, two-story single-family residence, including attached garage, and a 400-square-foot, 12-foot-high detached accessory building/shop.
REVISED PROJECT PROJECT DESCRIPTION FOR <i>DE NOVO</i> REVIEW:	(1) Construction of a 2,662-square-foot (1,680-square-foot footprint), maximum 22-foot-high, two-story single-family residence, including attached garage, and a 360-square-foot accessory building/shop attached by breezeway to the main residence; and (2) merger of all six of the 6,320-square-foot

adjacent lots comprising the property into a single separate legal parcel approximately 37,920 square feet (0.87-acre) in size.

APPELLANTS: Friends of Del Norte & James Snow

SUBSTANTIVE FILE: 1) Del Norte County Permit No.B28832C
DOCUMENTS 2) Del Norte County Local Coastal Program

SUMMARY OF STAFF RECOMMENDATION *DE NOVO*:
APPROVAL WITH CONDITIONS

Staff recommends that the Commission approve with conditions the coastal development permit for the proposed project. Staff believes that as conditioned, the proposed project is consistent with the certified Del Norte County Local Coastal Program (LCP).

On October 12, 2007, the Commission found that the appeal (Exhibit No. 11) of Del Norte County's approval of Permit No. B28832C (Exhibit No. 12) for the subject development raised a substantial issue with respect to the grounds on which the appeal had been filed. For purposes of *de novo* review by the Commission, the applicants submitted additional information since the County originally approved the project including, in part, (1) an analysis of existing vegetation and the effects of implementation of Cal-Fire defensible space requirements on vegetation and wetland and creek ESHAs (Exhibit No. 9), and (2) an alternatives analysis for the residence and accessory structure (Exhibit Nos. 6 and 7). The applicants also have revised the project description to propose (1) an alternative design for the new residence and accessory building/shop that decreases the building footprint and total square footage of the proposed structures (and also increases the width of the buffer between the proposed development and wetland ESHA), and (2) merging all six legal lots comprising the property into a single separate parcel (since the northern four lots are composed entirely of ESHA and ESHA buffer).

The 0.87-acre (37,920-square-foot) subject property is located at the southwest corner of the rights-of-way of undeveloped portions of Keller Avenue and Berry Street, on the northeast side of Pebble Beach Drive, on the northwest outskirts of Crescent City (see Exhibit Nos. 1, 2, and 3). The property is comprised of six separate, legal, adjacent, 40-ft by 158-ft lots. The proposed development bisects the southern two lots (see Exhibit No. 4), and at least four of the lots (the northern four) occur entirely within a wetland or wetland buffer on the property (see Exhibit No. 4). A class II drainage course and Palustrine emergent wetland occur on the approximately northern half of the property. The drainage course has no defined channel or banks and appears to result from seepage out of the adjacent slope to the south. There is no riparian vegetation present, and the dominant vegetation surrounding the drainage course is the invasive English ivy along with Sitka spruce, cascara, salal, and sword fern. The subject property lies at the periphery of the Marhoffer Creek wetland complex to the north.

The proposed development would be located a minimum of 68 feet to 100 feet from the ESHA (class II creek and wetland) on the property. Because the subject area is mapped by Cal-Fire as being within a moderate fire hazard zone, Cal-Fire defensible space requirements would require the proposed residential development to establish two different fire-safe zones for structures in fire hazard areas: (1) the “lean, clean, and green zone” in the area 30 feet immediately surrounding the structures, and (2) the “reduced fuel zone” in the area 30 to 100 feet around the structures (see Exhibit No. 9). One of the substantial issues raised in the subject appeal concerned the possibility that vegetation clearance on the property required by Cal-Fire defensible space requirements would extend through the ESHA buffer all the way to and beyond the wetland and creek ESHA in some areas. Such a scenario would be inconsistent with various LCP policies, which require the protection of ESHA and ESHA buffers, the quality of coastal waters and Marhoffer Creek wetlands, and maintenance of riparian vegetation for habitat, buffer, and stabilization qualities.

The applicants’ consultant completed an analysis of existing vegetation on the property and the effects of implementation of Cal-Fire defensible space requirements on vegetation and wetland and creek ESHAs. The analysis demonstrates that (1) no vegetation or other potentially flammable material would need to be removed from within the ESHA itself to comply with the Cal-Fire defensible space requirements, (2) the majority of vegetation to be removed includes only limbs of trees up to 10-20 feet above ground level rather than complete tree removal; (3) little understory disturbance (e.g., mowing and clearing of vegetation) would be necessary that could otherwise lead to slope instability and erosion; and (4) sufficient vegetation would remain on site to provide an effective visual- and noise-buffer between the proposed new development and the Marhoffer Creek wetland complex to the north.

The applicants’ consultant also completed a buffer adequacy analysis, which concludes that due to the existing heavy infestation with English ivy and other noxious weeds throughout the ESHA and its buffer, the lack of riparian vegetation, snags, or other valuable wildlife habitat features in the ESHA or ESHA buffer, and the intermittent nature of the watercourse (which does not support many aquatic or water-oriented species that depend on perennial streamflow or more significant water bodies), neither the ESHA itself nor the ESHA buffer support abundant wildlife or unique habitat functions and values. The analysis further points out that a topographic (slope) and vegetative (spruce forest vegetation) barrier will be present between the proposed development and the wetland ESHA. Furthermore, the analysis states that there is existing residential development located adjacent to the subject parcel, so species that do not tolerate human encroachment are not expected to use the area, and those species that are adapted to human disturbance will not be affected by the proposed development. Therefore, the analysis concludes that the proposed reduced (minimum 68-foot) buffer would not adversely affect the wetland ESHA.

Staff believes that allowing the proposed development to encroach to within 68 feet of the wetlands, with the incorporation of various special conditions, will not adversely affect wetland or ESHA resources:

- Special Condition No. 1 would require that vegetation removal be limited to the proposed limbing and limited vegetation removal as proposed in the application.
- Special Condition No. 2 would restrict the use of the ESHA and ESHA buffer area on the property to open space and prohibit all development in the area north and east of the proposed residence and accessory building/shop (except for the removal of non-native vegetation; installation of erosion control measures; installation of drainage improvements; merger of lots on the subject property; and removal of vegetation for compliance with Cal-Fire defensible space requirements).
- Special Condition No. 3 would require the applicants to record a deed restriction that imposes the special conditions of the permit as covenants, conditions, and restrictions on the use of the property to ensure that both the applicants and future purchasers of the property are notified of the prohibitions on development within the ESHA and buffer area established by Special Condition No. 2.
- Special Condition No. 4 would require that only native and/or non-invasive plant species be planted at the site and would restrict the use of specified rodenticides on the property. The condition also would require that English ivy be controlled on the property by girdling ivy plants that encroach into the canopy layer at the base of trees that are infested with the plant.
- Special Condition No. 6 would require that all exterior lighting be the minimum necessary for the safe ingress, egress, and use of the structures and be low-wattage, non-reflective, shielded, and have a directional cast downward.
- Special Condition No. 7 would require submittal of a drainage plan demonstrating that all runoff from the site is collected and directed away from the ESHA in a non-erosive manner into pervious areas on the site.
- Special Condition No. 8 would require submittal of an erosion and runoff control plan for the construction phase of the project.
- Special Condition No. 10 would require the applicants to merge the lots as proposed by obtaining a Notice of Merger approval from Del Norte County for the subject lots prior to issuance of the coastal development permit, and to submit evidence of recordation of the merger prior to the commencement of all other development of the site.

Therefore, as conditioned, staff recommends that the Commission find that the project is consistent with all applicable policies of the certified Del Norte County LCP.

The motion to adopt the staff recommendation of Approval with Conditions is found on Pages 5-6.

STAFF NOTES

1. Procedure

On October 12, 2007, the Coastal Commission found that the appeal (Exhibit No. 11) of Del Norte County's approval of Permit No. B28832C (Exhibit No. 12) for the subject development raised a substantial issue with respect to the grounds on which the appeal had been filed, pursuant to Section 30625 of the Coastal Act and Section 13115 of Title 14 of the California Code of Regulations. As a result, the County's approval is no longer effective, and the Commission must consider the project *de novo*. The Commission may approve, approve with conditions (including conditions different than those imposed by the County), or deny the application. Since the proposed project is within an area for which the Commission has certified a Local Coastal Program, the applicable standard of review for the Commission to consider is whether the development is consistent with Del Norte County's certified Local Coastal Program (LCP). Testimony may be taken from all interested persons at the *de novo* hearing.

2. Additional Information Submitted & Amended Project Description for *de novo* Review

For purposes of *de novo* review by the Commission, the applicant has submitted additional information since the County originally approved the project including, in part, (1) an analysis of existing vegetation and the effects of implementation of Cal-Fire defensible space requirements on vegetation and wetland and creek ESHAs (Exhibit No. 9), and (2) an alternatives analysis for the residence and accessory structure (Exhibit Nos. 6 and 7). The additional analyses submitted by the applicants for the *de novo* review address issues raised by the appeal and provides additional information concerning the project proposal that was not a part of the record when the County originally acted to approve the coastal development permit. The applicant also has revised the project description to propose (1) an alternative design for the new residence and accessory building/shop that decreases the building footprint and total square footage of the proposed structures (and also increases the width of the buffer between the proposed development and wetland ESHA), and (2) merging all six legal lots comprising the property into a single separate parcel (since the northern four lots are composed entirely of ESHA and ESHA buffer).

I. MOTION, STAFF RECOMMENDATION *DE NOVO*, & RESOLUTION:

Motion:

I move that the Commission approve Coastal Development Permit No. A-1-DNC-07-036, subject to conditions.

Staff Recommendation of Approval:

Staff recommends a **YES** vote. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

Resolution to Approve Permit:

The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the certified Del Norte County LCP. Approval of the permit complies with the California Environmental Quality Act because either: 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment; or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

II. STANDARD CONDITIONS: See Attachment A.

III. SPECIAL CONDITIONS:

1. Conformance to Vegetation Removal Plan for Cal-Fire Defensible Space Requirements

The permittee shall undertake all vegetation trimming and removal to meet Cal-Fire defensible space requirements consistent with the vegetation removal contained in Exhibit No. 9 entitled "Information for De Novo Review of Trask Application, Parcel # 120-035-02, Keller Avenue, May 2008" by Galea Wildlife Consulting. No vegetation removal shall occur beyond that which is proposed in Exhibit No. 9 except for the removal of nonnative vegetation consistent with the provisions of to Special Condition No. 2.

2. ESHA Buffer Open Space Area Restrictions

- A. No development, as defined in Section 30106 of the Coastal Act, shall occur in the open space area generally depicted on Exhibit No. 10, which includes all areas of the subject property north and east of the authorized 2,662-square-foot residence (including garage) and 360-square-foot accessory building, except for:
 - 1). Removal of non-native vegetation; installation of erosion control measures installed pursuant to Special Condition No. 8; installation of drainage improvements installed pursuant to Special Condition No. 7; merger of lots on the subject property merged pursuant to Special Condition No. 10; and removal of vegetation for compliance with Cal-Fire defensible space requirements pursuant to Special Condition No. 1.

- 2). The following development, if approved by the Coastal Commission as an amendment to this coastal development permit: planting of native vegetation to improve the habitat value of the ESHA buffer, additional vegetation removal for fire-safe compliance purposes, installation and maintenance of buried utility lines, and the removal of debris and unauthorized structures.

B. PRIOR TO ISSUANCE BY THE EXECUTIVE DIRECTOR OF THE NOTICE OF INTENT TO ISSUE COASTAL DEVELOPMENT PERMIT NO. A-1-DNC-07-036, the applicant shall submit for the review and approval of the Executive Director, and upon such approval, for attachment as an Exhibit to the NOI, a formal legal description and graphic depiction of the portion of the subject property affected by this condition, as generally described above and shown on Exhibit No. 10 attached to this staff report.

3. Deed Restriction

PRIOR TO ISSUANCE OF COASTAL DEVELOPMENT PERMIT NO. A-1-DNC-07-036, the applicant shall submit to the Executive Director for review and approval documentation demonstrating that the applicant has executed and recorded against the parcel(s) governed by this permit a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Property. The deed restriction shall include a legal description of the entire parcel or parcels governed by this permit. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

4. Site Revegetation & English Ivy Control

Landscaping and English ivy removal activities on the property governed by Coastal Development Permit No. A-1-DNC-07-036 shall comply with the following standards and limitations:

- A. Only native plant species shall be planted. All proposed plantings shall be obtained from local genetic stocks within Del Norte County. If documentation is provided to the Executive Director that demonstrates that native vegetation from local genetic stock is not available, native vegetation obtained from genetic stock outside of the local area may be used. No plant species listed as problematic and/or invasive by the California Native Plant Society, the California Invasive Plant Council, or as may be identified from time to time by the State of

California, shall be employed or allowed to naturalize or persist on the site. No plant species listed as a “noxious weed” by the governments of the State of California or the United States shall be utilized within the property;

- B. The use of rodenticides containing any anticoagulant compounds, including, but not limited to, Bromadiolone, Brodifacoum or Diphacinone shall not be used.
- C. English ivy shall be controlled on the property by girdling ivy plants that encroach into the canopy layer at the base of trees that are infested with the plant.

5. Future Development Restriction

This permit is only for the development described in Coastal Development Permit (CDP) No. A-1-DNC-07-036. Pursuant to Title 14 California Code of Regulations section 13250(b)(6), the exemptions otherwise provided in Public Resources Code Section 30610(a) shall not apply to the development governed by CDP No. A-1-DNC-07-036. Accordingly, any future improvements to the single family house authorized by this permit, including but not limited to repair and maintenance identified as requiring a permit in Public Resources section 30610(d) and Title 14 California Code of Regulations sections 13252(a)-(b), shall require an amendment to CDP No. A-1-DNC-07-036 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.

6. Exterior Lighting & Materials Standards

All exterior lights, including any lights attached to the rear and sides of the buildings oriented toward the wetland and environmentally sensitive habitat areas on and adjoining the project parcel (generally to the north) shall be the minimum necessary for the safe ingress and egress of the structures, and shall be low-wattage, non-reflective, shielded, and have a directional cast downward such that no light will shine beyond the boundaries of the subject parcel and only the minimum light necessary for the safe ingress and egress of the structures will shine into the ESHA buffer areas. In addition, to minimize glare, no reflective glass, exterior finishings, roofing, or roof-mounted structures are authorized by this permit.

7. Drainage Plan

- A. **PRIOR TO ISSUANCE OF COASTAL DEVELOPMENT PERMIT NO. A-1-DNC-07-036**, the applicant shall submit to the Executive Director, for review and written approval, a plan for ensuring that drainage from the subject site and from the proposed improvements to Berry Street and Keller Avenue does not adversely impact adjacent wetlands and sensitive habitats.
 - 1). The plan shall demonstrate that
 - (a) Site runoff, including roof gutters and runoff from the improved access roads, shall be collected and directed away from the

adjacent wetlands in a non-erosive manner into pervious areas of the site (*i.e.* undeveloped areas, landscaped areas) to achieve infiltration to the maximum extent practicable; and

- (b) The release rate of stormwater runoff to adjacent wetlands shall not exceed the natural rate of stormwater runoff for a 50-year storm of 10-minute duration; and
 - (c) Stormwater outfalls, culverts, gutters, and the like shall be dissipated and, where feasible, screened.
- B. The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

8. Erosion & Runoff Control Plan

- A. **PRIOR TO ISSUANCE OF COASTAL DEVELOPMENT PERMIT NO. A-1-DNC-07-036**, the applicant shall submit to the Executive Director, for review and written approval, a plan to control erosion and runoff during project construction to protect adjacent wetlands and sensitive habitats.
- 1). The plan shall include, at a minimum, the following components:
 - (a) Design elements and/or Best Management Practices (BMPs) which will serve to minimize the volume and velocity of stormwater runoff leaving the developed site, and to capture sediment and other pollutants contained in stormwater runoff from the development, by facilitating on-site infiltration and trapping of sediment generated from construction;
 - (b) Soils grading activities shall be restricted to the dry-season between April 15 and October 31;
 - (c) A physical barrier consisting of silt fencing and/or bales of straw placed end-to-end shall be installed downslope of any construction areas and between construction areas and the delineated wetland and class II drainage. The bales shall be composed of weed-free rice straw, and shall be maintained in place throughout the construction period;
 - (d) Vegetation at the site shall be maintained to the maximum extent possible. Topsoil shall be stockpiled and reused as ground cover after excavation work has been completed. Any disturbed areas shall be replanted with noninvasive native plants obtained from local genetic stock consistent with the requirements of Special

Condition No. 4 immediately following project completion, and covered by jute netting, coir logs, and rice straw;

- (e) Areas disturbed during construction, grading, etc. within 100 feet of the wetland and ESHA shall be restored to original contours and sufficiently and promptly replanted with vegetation naturally occurring in the immediate area; and
 - (f) Construction fencing (such as orange plastic barrier fencing) shall be placed around the edge of the building site/construction work area to protect wetlands and sensitive habitats from construction activities.
- B. The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

9. Del Norte County Encroachment Permit

PRIOR TO ISSUANCE OF COASTAL DEVELOPMENT PERMIT NO. A-1-DNC-07-036, the applicant shall submit to the Executive Director a copy of Encroachment Permit issued by Del Norte County for the proposed improvements to Berry Street and Keller Avenue. The applicant shall inform the Executive Director of any changes to the project required by the County. Such changes shall not be incorporated into the project until the applicant obtains a Commission amendment to this coastal development permit, unless the Executive Director determines that no amendment is legally required.

10. Merger of Lots

- A. **PRIOR TO ISSUANCE OF COASTAL DEVELOPMENT PERMIT NO. A-1-DNC-07-036**, the applicant shall submit to the Executive Director, for review and written approval, a copy of a Notice of Merger approved by Del Norte County for Pebble Beach Tract Lot Nos. 104 through 109 which comprise the subject property (APN 120-035-02), thereby legally merging the subject lots into one legal parcel.
- B. **PRIOR TO COMMENCEMENT OF DEVELOPMENT OTHER THAN THE MERGER OF LOTS**, the permittee shall submit to the Executive Director evidence that the Notice of Merger of the subject lots has been recorded.

11. Protection of Archaeological Resources

- A. The permittee or their representative shall contact the Smith River Rancheria at least two weeks prior to commencement of excavation activities for development authorized by Coastal Development Permit No. A-1-DNC-07-036 to offer the

opportunity for an observer from the Rancheria to monitor the initial ground-disturbing phase of the project.

- B. If an area of historic or prehistoric cultural resources or human remains are discovered during the course of the project, all construction shall cease and shall not recommence except as provided in subsection (C) hereof, and a qualified cultural resource specialist shall analyze the significance of the find.
- C. A permittee seeking to recommence construction following discovery of the cultural deposits shall submit an archaeological plan for the review and approval of the Executive Director.
 - 1) If the Executive Director approves the Archaeological Plan and determines that the Archaeological Plan's recommended changes to the proposed development or mitigation measures are *de minimis* in nature and scope, construction may recommence after this determination is made by the Executive Director.
 - 2) If the Executive Director approves the Archaeological Plan but determines that the changes therein are not *de minimis*, construction may not recommence until after an amendment to this permit is approved by the Commission.

12. Conditions Imposed By Local Government

This action has no effect on conditions imposed by a local government pursuant to an authority other than the Coastal Act.

IV. FINDINGS & DECLARATIONS

The Commission hereby finds and declares the following:

A. Incorporation of Substantial Issue Findings

The Commission hereby incorporates by reference the Substantial Issue Findings contained in the Commission staff report for Appeal No. A-1-DNC-07-036 dated September 27, 2007.

B. Project Setting

The 0.87-acre (37,920-square-foot) subject property is located at the southwest corner of the rights-of-way of undeveloped portions of Keller Avenue and Berry Street, on the northeast side of Pebble Beach Drive, on the northwest outskirts of Crescent City (see Exhibit Nos. 1, 2, and 3). The project site is separated by intervening parcels and streets from the shoreline and from the coastal bluffs along Pebble Beach Drive. The property is located at an elevation of approximately 40 feet above mean sea level and outside of any flood hazard area or tsunami run-up zone. Due to intervening residences to the south of the subject property, the proposed

development would be located approximately 500 feet from the ocean and would not be visible from Pebble Beach Drive (see Exhibit Nos. 2 and 3).

The property is comprised of six separate, legal, adjacent, 40-ft by 158-ft lots, which according to information submitted by the applicant, were created by grant deed in 1926 (see Exhibit No. 3). All of the lots (the northern four) occur entirely within a wetland or within 100 feet of wetlands. The proposed development bisects the southern two lots (see Exhibit No. 4).

The property is designated as Urban Residential (with up to six dwelling units per acre) under the certified Land Use Plan. The zoning designation for the property is R1-B6 (Single Family Residence – B Combining District – 6,000 square feet minimum lot size). The building height maximum is 25 feet for the zone.

The subject property lies at the periphery of existing residential development, with the Marhoffer Creek wetland complex located to the north. In 1979 the County conducted a Special Study for the Marhoffer Creek area as part of its preparation of the LCP. In 1993, Karen Theiss & Associates prepared a more detailed mapping of the lower watershed of the Marhoffer Creek area, and the subject property was included in the study area. The mapping in the Theiss report shows the southwestern corner of the parcel (i.e., the site of the proposed development) as being previously disturbed. The topography of the building site is mostly flat to gently sloping before the area slopes moderately to the creek below (see Exhibit No. 5). The center of the parcel is shown as a mixed spruce/alder/cascara vegetation type, and the northern quarter of the parcel is mapped as being part of the freshwater marsh of Marhoffer Creek. This characterization is generally consistent with the description of the property in the biological assessment prepared specifically for the project approved by the County, which describes the upland portion of the property as consisting of young pine (*Pinus* sp.), Sitka spruce (*Picea sitchensis*), and cascara (*Frangula purshiana*) trees, with an understory of huckleberry (*Vaccinium ovatum*), Himalayan blackberry (*Rubus discolor*), salal (*Gaultheria shallon*), and swordfern (*Polystichum munitum*). To the north of the proposed building site the vegetation is dense with mostly invasive English ivy (*Hedera helix*). The ivy, which extends down into a delineated wetland, covers the understory, herbaceous, and shrub layers and is invading the canopy above. A class II drainage crosses the center of the property, connects with the delineated wetland, and flows into Marhoffer Creek to the north (see Exhibit No. 4).

C. Description of Approved Project & Revised Project Description

The development approved by the County consists of construction of (1) a two-story, L-shaped, 3,424-square-foot (with a footprint of 1,696 square feet), maximum of 25-foot-high, single family residence including an attached garage, which would be accessed off Berry Street, and (2) a 400-square-foot, 12-foot-high detached accessory building/shop, which would be located six feet east of the residence and accessed from Keller Avenue. The appeal hearing opened on October 12, 2007, where the Commission found that the appeal of Del Norte County's approval of Permit No. B28832C for the subject development raised a substantial issue with respect to the grounds on which the appeal had been filed (see Exhibit Nos. 11 and 12).

For purposes of *de novo* review by the Commission, the applicant submitted additional information and revised project description. The additional information includes, in part, (1) an analysis of existing vegetation and the effects of implementation of Cal-Fire defensible space requirements on vegetation and wetland and creek ESHAs (Exhibit No. 9), and (2) an alternatives analysis for the residence and accessory structure (Exhibit Nos. 6 and 7). The alternative design that the applicants are now proposing in their revised project description submitted for purposes of the Commission's *de novo* review for the single family residence differs from that approved by the County in that it removes 2 feet from the width of the garage, removes 2 feet from the depth of the accessory structure, incorporates the accessory structure by breezeway connection to the main residence, reduces the second floor area by 766 square feet (by recessing the second floor perimeter walls in from the first floor walls), and reduces the maximum height of the structure by 3 feet (see Exhibit No. 7). Thus, the proposed alternative reduces the size of the residence to 2,134 square feet (from the County-approved 3,424 square feet), reduces the size of the garage and accessory building to 888 square feet (from the County-approved 976 square feet), and reduces the height of the residence to 22 feet (from the County-approved 25 feet).

Improvements are also proposed for both Berry Street and Keller Avenue to provide access to the proposed garage and shop, respectively. The two right-of-ways will be improved to 20-foot wide roads by 4-inch compacted thickness $\frac{3}{4}$ -inch minus crushed rock with 2-foot graded shoulders on both sides. Berry Street will be improved from its intersection with Spruce Avenue northward a distance of approximately 80 feet to the southwest corner of the subject property. Keller Avenue will be improved a minimum distance of 100 feet east of the southwest corner of the subject property.

In addition to modifying the house design, the revised project description submitted for the purposes of the Commission's *de novo* review also adds to the project the merger of all six of the 6,320-square-foot adjacent lots comprising the property into a single separate legal parcel 37,920 square feet (0.87-acre) in size (see Exhibit Nos. 3 and 13).

D. Planning & Locating New Development

1. Applicable LCP Policies & Standards:

The New Development chapter of the certified LUP states in applicable part (emphasis added):

1. *Proposed development within the urban boundary shall meet land use criteria described in each area plan and in Land Use Plan policies..*
2. *Proposed development within the urban boundary may be approved only after it has been adequately proven that the location of the proposed development will accommodate the development. These factors include but are not limited to sewage disposal, water supply and street system capacity.*

...

2. Consistency Analysis:

The subject property is located on the edge of a developed residential area zoned for single family residential development with a 6,000 square feet minimum lot size). The applicants are proposing to construct a 2,134-square-foot single family residence on a merger lot that will be 37,920 square feet (0.87-acre) in size. The applicants also are proposing to improve Berry Street and Keller Avenue to access the proposed garage and accessory building, respectively. Therefore, the proposed residential use would be located in a developed area planned for such use.

Existing sewer and water lines are in place to provide services to the proposed development, which is within the urban services limit of the city of Crescent City. Water service would be provided by Crescent City, and the County would provide sewer services. Thus, the area has adequate services to accommodate the proposed residence.

The residential development would be located adjacent to a delineated wetland (see Exhibit Nos. 4, 6, and 9). As discussed in Finding No. IV-E below, the development has been conditioned to minimize potential impacts to wetlands and other environmentally sensitive habitat areas.

Therefore, the Commission finds that as conditioned, the proposed development is consistent with LCP policies on new development in that it is located in a developed area, it has adequate water and sewer capability to accommodate it, and it will not cause significant adverse effects, either individually or cumulatively, on coastal resources.

E. Protection of Wetlands, Water Quality, & Environmentally Sensitive Habitat Areas

The single family residence, as proposed, would be located a minimum of 68-100 feet from the delineated wetland and class II drainage course on the property.

1. Applicable LCP Policies & Standards:

The Marine and Water Resources (MWR) chapter of the certified LUP, Section VI (General Policies), Subsection C (LCP Policies) states in applicable part (emphasis added):

1. *The County seeks to maintain and where feasible enhance the existing quality of all marine and water resources.*
...
3. *All surface and subsurface waters shall be maintained at the highest level of quality to insure the safety of public health and the biological productivity of coastal waters.*
...
6. *Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on such resources shall be allowed within such areas. Development in areas adjacent to environmentally sensitive habitat areas shall be sited and designed to prevent impacts which would significantly degrade such areas, and shall be compatible with the continuance of such habitat areas.*
...

MWR Section VII (Specific Area Policies and Recommendations), Subsection D (Wetlands), No. 4 (Policies and Recommendations) states in applicable part (emphasis added):

...

- f. *Development in areas adjacent to environmentally sensitive habitat areas shall be sited and designed to prevent impacts which could significantly degrade such areas, and shall be compatible with the continuance of such habitat areas. The primary tool to reduce the above impacts around wetlands between the development and the edge of the wetland shall be a buffer of one-hundred feet in width. A buffer of less than one-hundred feet may be utilized where it can be determined that there is no adverse impact on the wetland. A determination to utilize a buffer area of less than one-hundred feet shall be done in cooperation with the California Department of Fish and Game and the County's determination shall be based upon specific findings as to the adequacy of the proposed buffer to protect the identified resource. Firewood removal by owner for on site use and commercial timber harvest pursuant to CDF timber harvest requirements are to be considered as allowable uses within one-hundred foot buffer areas.*

...

MWR Section VII (Specific Area Policies and Recommendations), Subsection E (Riparian Vegetation), No. 4 (Policies and Recommendations) states in applicable part:

- a. *Riparian vegetation shall be maintained along streams, creeks and sloughs and other water courses within the Coastal Zone for their qualities as wildlife habitat, stream buffer zones, and bank stabilization.*

...

The Marhoffer Creek Wetland Special Study (MCW) chapter of the certified LUP, Section V (Policies and Recommendations), Subsection C (LCP Policies), states in applicable part:

...

2. *A buffer strip shall be maintained in natural conditions around the Marhoffer Creek wetlands where adjacent land uses are found incompatible with the productivity or maintenance of the wetlands.*
3. *New development adjacent to the Marhoffer Creek wetlands shall not result in adverse levels of additional sediment, runoff, noise, wastewater or other disturbances.*

...

6. *Riparian vegetation along the course of Marhoffer Creek and its branch streams shall be maintained for their qualities of wildlife habitat and stream buffer zones.*

...

9. *Vegetation removal in the Marhoffer Creek wetland shall be limited to that necessary to maintain the free flow of the drainage courses and only when excessive impediment creates flooding hazards on adjacent lands.*

...

2. Consistency Analysis:

The above-referenced policies require, among other things, that the quality and biological productivity of wetlands and water resources be maintained, that environmentally sensitive

habitat areas (ESHA) such as wetlands and creeks be protected against any significant disruption of habitat values, and that development adjacent to ESHA be sited and designed appropriately to avoid habitat degradation. The policies also specifically require that Marhoffer Creek and its associated wetlands be protected and maintained for water quality, wildlife habitat, stream buffer, and riparian vegetation qualities.

Such policies are usually implemented by the imposition of buffers between approved development and the environmentally sensitive habitat, including Marhoffer Creek wetlands. Buffers provide separation from development and wetland areas to minimize disturbance to plants and animals inhabiting a wetland and to protect the habitat values and functions of the area. Buffers are typically intended to create a spatial separation between potentially disruptive activity typically associated with development such as noise, lighting, and human activity, which can disrupt feeding, nesting, and behavior patterns of wildlife. Buffer areas also provide transitional habitat between development and environmentally sensitive habitat areas. Additionally, buffers are often required to provide a vegetated area to capture and treat drainage and storm water runoff from development to minimize the amount of pollutants potentially entering wetlands and receiving waters.

A class II drainage course and Palustrine emergent wetland occur on the approximately northern half of the property. The drainage course originates on the adjacent parcel to the east, winds generally northwestward through the property, and connects into the freshwater wetland area located on the northwest corner of the subject property. The drainage course has no defined channel or banks and appears to result from seepage out of the adjacent slope to the south. There is no riparian vegetation present, and the dominant vegetation surrounding the drainage course is the invasive English ivy along with Sitka spruce, cascara, salal, and sword fern. The subject property lies at the periphery of the Marhoffer Creek wetland complex to the north.

The proposed development would be located a minimum of 68 feet to 100 feet from the ESHA (class II creek and wetland) on the property. Because the subject area is mapped by Cal-Fire as being within a moderate fire hazard zone, Cal-Fire defensible space requirements would require the proposed residential development to establish two different fire-safe zones for structures in fire hazard areas: (1) the “lean, clean, and green zone” in the area 30 feet immediately surrounding the structures, and (2) the “reduced fuel zone” in the area 30 to 100 feet around the structures (see Exhibit No. 9). One of the substantial issues raised in the subject appeal concerned the possibility that vegetation clearance on the property required by Cal-Fire defensible space requirements would extend through the ESHA buffer all the way to and beyond the wetland and creek ESHA in some areas. Such a scenario would be inconsistent with various LCP policies (cited above), including MWR Section VII.D.4.f or MCW Section V.C.9 (which require protection of ESHA and ESHA buffers), MWR Section VI.C and MCW Section V.C.3 (which protect the quality of coastal waters and Marhoffer Creek wetlands), and MWR Section VII.E.4.a and MCW Section V.C.2 and 6 (which require maintenance of riparian vegetation for habitat, buffer, and stabilization qualities).

The applicant’s consultant, Galea Wildlife Consulting, completed a buffer adequacy analysis (Exhibit No. 8), which addressed the seven standards for determining the adequacy of a reduced

(i.e., less than 100-foot) buffer including (1) biological significance of adjacent lands; (2) sensitivity of species to disturbance; (3) susceptibility of parcel to erosion; (4) use of natural topographic features to locate development; (5) use of existing cultural features to locate buffer zones; (6) lot configuration and location of existing development; and (7) type and scale of development proposed. The analysis concludes that due to the existing heavy infestation with English ivy and other noxious weeds throughout the ESHA and its buffer, the lack of riparian vegetation, snags, or other valuable wildlife habitat features in the ESHA or ESHA buffer, and the intermittent nature of the watercourse (which does not support many aquatic or water-oriented species that depend on perennial streamflow or more significant water bodies), neither the ESHA itself nor the ESHA buffer support abundant wildlife or unique habitat functions and values. The analysis further points out that a topographic (slope) and vegetative (spruce forest vegetation) barrier will be present between the proposed development and the wetland ESHA. Furthermore, the analysis states that there is existing residential development located adjacent to the subject parcel, so species that do not tolerate human encroachment are not expected to use the area, and those species that are adapted to human disturbance will not be affected by the proposed development. Therefore, the analysis concludes that the proposed reduced (minimum 68-foot) buffer would not adversely affect the wetland ESHA. The analysis recommends several mitigation measures to insure the protection of the ESHA including (a) excluding construction equipment from the north side of the building site to maintain the integrity of the sloped hillside adjacent to the ESHA; (b) erecting a silt fence between the building site and the ESHA to be maintained during construction activities; (c) retaining natural vegetation on the slope north of the building site; (d) no equipment washing or maintenance on the north side of the building site or within 100 feet of the ESHA; (d) control of English ivy in the ESHA buffer and replacement planting with native vegetation such as red alder and huckleberry.

Commission staff visited the property and is in agreement with the applicant's conclusion that the reduced wetland setbacks would be adequate to protect the resource provided certain mitigation measures are incorporated into the project. Allowing the proposed development to encroach to within 68 feet of the wetlands, with the incorporation of the appropriate mitigation measures discussed below will not adversely affect wetland or ESHA resources.

As part of its *de novo* review of the appeal, the Commission requested, and the applicant has provided, an analysis of existing vegetation and the effects of implementation of Cal-Fire defensible space requirements on vegetation and wetland and creek ESHAs on the parcel (Exhibit No. 9). The analysis demonstrates that in order to ensure that the proposed residence on the site would be "fire safe" per the Cal-Fire defensible space requirements, certain vegetation and other "fuels" on the property would require removal up to 60 feet outward from the proposed new development. This includes the various live and dead trees, shrubs, and other flammable material as detailed in Exhibit No. 9. However, the analysis reveals that (1) no vegetation or other potentially flammable material would need to be removed from within the ESHA itself to comply with the Cal-Fire defensible space requirements, (2) the majority of vegetation to be removed includes only limbs of trees up to 10-20 feet above ground level rather than complete tree removal; (3) little understory disturbance (e.g., mowing and clearing of vegetation) would be necessary that could otherwise lead to slope instability and erosion; and (4) sufficient vegetation

would remain on site to provide an effective visual- and noise-buffer between the proposed new development and the Marhoffer Creek wetland complex to the north.

To ensure that vegetation removal for compliance with Cal-Fire defensible space requirements does not extend into the ESHA or exceed removal in the ESHA buffer beyond that which is proposed in Exhibit No. 9, the Commission attaches Special Condition No. 1. This condition requires that vegetation removal be limited to the proposed limbing and limited vegetation removal as proposed in the application (Exhibit No. 9). Additional removal of invasive vegetation (e.g., English ivy) may also occur and is not limited by this condition. Therefore, the Commission finds that implementing the necessary vegetation removal to ensure that the proposed residence would be “fire safe” per Cal-Fire requirements would not affect the ESHA and would not reduce the adequacy of the buffer to protect the wetland buffer consistent with the wetland and ESHA protection provisions of the certified LCP.

To ensure that no aspects of the residential development or defensible space activities encroach into the wetland ESHA itself or the buffer area beyond the “reduced fuel zone” (i.e., beyond 60 feet from the structures), the Commission attaches Special Condition Nos. 2 and 3. Special Condition No. 2 restricts use of the ESHA and ESHA buffer area on the property, as generally depicted on Exhibit No. 10, to open space. The area of the property unaffected by the restrictions becomes a building envelope within which the authorized 2,662-square-foot residence (including garage), 360-square-foot accessory building, and associated yards and other residential features must be located. Special Condition No. 2 prohibit all development in the affected area except for the removal of non-native vegetation; installation of erosion control measures installed pursuant to Special Condition No. 8 (see below); installation of drainage improvements installed pursuant to Special Condition No. 7 (see below); merger of lots on the subject property merged pursuant to Special Condition No. 10 (see below); and removal of vegetation for compliance with Cal-Fire defensible space requirements pursuant to Special Condition No. 1. Special Condition No. 3 requires the applicants to record a deed restriction that imposes the special conditions of the permit as covenants, conditions, and restrictions on the use of the property to ensure that both the applicants and future purchasers of the property are notified of the prohibitions on development within the ESHA and buffer area established by Special Condition No. 2.

The Commission finds that the ESHA located adjacent to the site could be adversely affected if non-native, invasive plant species were introduced in general landscaping at the site. Introduced invasive exotic plant species could physically spread into the ESHA and displace native wetland vegetation, thereby disrupting the values and functions of the adjacent ESHAs. The seeds of exotic invasive plants could also be spread to nearby ESHA by wind dispersal or by birds and other wildlife. The applicant is not proposing any landscaping as part of the proposed project. However, to ensure that the ESHA near the site is not significantly degraded by any future landscaping that would contain invasive exotic species, the Commission attaches Special Condition No. 4 that requires only native and/or non-invasive plant species be planted at the site. The condition further requires that English ivy shall be controlled on the property by girdling ivy plants that encroach into the canopy layer at the base of trees that are infested with the plant.. In addition, Special Condition No. 3 requires recordation of a deed restriction that imposes the special conditions of the permit as covenants, conditions, and restrictions on the use of the

property which would ensure that all future owners of the property are aware of the landscaping restriction.

To help in the establishment of vegetation, rodenticides are sometimes used to prevent rats, moles, voles, gophers, and other similar small animals from eating the newly planted saplings. Certain rodenticides, particularly those utilizing blood anticoagulant compounds such as brodifacoum, bromadiolone and diphacinone, have been found to pose significant primary and secondary risks to non-target wildlife present in urban and urban/wildland areas. As the target species are preyed upon by raptors or other environmentally sensitive predators and scavengers, these compounds can bio-accumulate in the animals that have consumed the rodents to concentrations toxic to the ingesting non-target species. Therefore, to minimize this potential significant adverse cumulative impact to environmentally sensitive wildlife species, the Commission attaches Special Condition No. 4 prohibiting the use of specified rodenticides on the property governed by CDP No. A-1-DNC-07-036. The required recordation of a deed restriction (Special Condition No. 3) identifying all applicable special conditions attached to the permit will provide notice to future owners of the terms and limitations placed on the use of the property.

The Commission notes that future minor incidental development normally associated with single family residences such as additions to the residence, construction of outbuildings, decks and patios, or installation of landscaped areas could be sited and designed in a manner that could compromise the value of the buffer and have potentially adverse impacts on the environmentally sensitive habitat area. Many of these kinds of development are normally exempt from the need to obtain a coastal development permit under Section 30610(a) of the Coastal Act. Thus, the Commission would not normally be able to review such development to ensure that impacts to sensitive habitat are avoided. To avoid such impacts to coastal resources from the development of otherwise exempt additions to existing homes, as discussed above, Section 30610(a) requires the Commission to specify by regulation those classes of development which involve a risk of adverse environmental effects and require that a permit be obtained for such improvements. Pursuant to Section 30610(a) of the Coastal Act, the Commission adopted Section 13250 of Title 14 of the California Code of Regulations (CCR). Section 13250(b)(6) specifically authorizes the Commission to require a permit for additions to existing single family residences that could involve a risk of adverse environmental effect by indicating in the development permit issued for the original structure that any future improvements would require a development permit. As noted above, certain additions or improvements to the approved residence could involve a risk of adverse impacts to the ESHA on the site. Therefore, in accordance with provisions of Section 13250 (b)(6) of Title 14 of the CCR, the Commission attaches Special Condition No. 5, which requires a coastal development permit or a permit amendment for all additions and improvements to the residence on the subject parcel that might otherwise be exempt from coastal permit requirements. This condition will allow future development to be reviewed by the Commission to ensure that future improvements will not be sited or designed in a manner that would result in adverse impacts to the ESHA on the site. Special Condition No. 3 also requires recordation of a deed restriction to ensure that all future owners of the property are aware of the requirement to obtain a permit for development that would otherwise be exempt. This requirement will reduce the potential for future landowners to make improvements to the residence without first obtaining a permit as required by this condition.

If not restricted, exterior lighting associated with the proposed development could adversely affect nocturnal wildlife using the adjacent wetland and ESHA habitats. For example, many species avoid areas with excessive lighting, and some species simply stop reproducing if habitat destruction from overly bright lights becomes too severe. Furthermore, as discussed in more detail below in Finding No. IV-F, exterior lighting associated with the proposed development also could adversely affect visual resources in the area if the lighting were allowed to shine skyward and beyond the boundaries of the parcel. The glow of lighting emanating above the subject property would be visible from public vantage points. To reduce the impacts of exterior lighting associated with the proposed development on coastal resources, the Commission therefore attaches Special Condition No. 6, which requires that all exterior light be the minimum necessary for the safe ingress, egress, and use of the structures and be low-wattage, non-reflective, shielded, and have a directional cast downward. These limitations on the lighting will ensure that the project, as conditioned, will not cast a skyward glow that would be harmful to wildlife using the nearby sensitive habitats. As discussed above, Special Condition No. 3 requires the applicant to record a deed restriction detailing the specific development authorized under the permit, identifying all applicable special conditions attached to the permit, and providing notice to future owners of the terms and limitations placed on the use of the property, including these lighting restrictions to protect biological and visual resources.

The proposed residential development and access road improvements will result in an increase in impervious surfaces, which in turn decreases the infiltrative function and capacity of existing permeable land on site. The reduction in permeable space therefore leads to an increase in the volume and velocity of stormwater runoff that can be expected to leave the site. Further, pollutants commonly found in runoff associated with residential use include petroleum hydrocarbons, including oil and grease from vehicles; heavy metals; synthetic organic chemicals including paint and household cleaners; soap and dirt from washing vehicles; dirt and vegetation from yard maintenance; litter; fertilizers, herbicides, and pesticides; and bacteria and pathogens from animal waste. The discharge of these pollutants to coastal waters can cause cumulative impacts such as eutrophication and anoxic conditions resulting in fish kills and diseases and the alteration of aquatic habitat, including adverse changes to species composition and size; excess nutrients causing algae blooms and sedimentation increasing turbidity, which reduce the penetration of sunlight needed by aquatic vegetation which provide food and cover for aquatic species; disruptions to the reproductive cycle of aquatic species; and acute and sublethal toxicity in marine organisms leading to adverse changes in reproduction and feeding behavior. These impacts reduce the biological productivity and the quality of coastal waters and wetlands, reduce optimum populations of marine organisms, and have adverse impacts on human health.

Therefore, in order to find the proposed development consistent with the requirements of Policy 3 of the MWR chapter of the certified LUP, Section VI, Subsection C that all surface and subsurface water shall be maintained at the highest level of quality to ensure the safety of public health and the biological productivity of coastal waters, the Commission attaches Special Condition Nos. 7, 8, and 9. Special Condition No. 7 requires the applicant to submit a drainage plan for review and approval of the Executive Director prior to the issuance of the coastal development permit. The drainage plan shall demonstrate that the runoff from the site, including

roof gutters and runoff from the improved access roads, is collected and directed away from the ESHA in a non-erosive manner into pervious areas on the site to achieve infiltration to the maximum extent practicable. The plan shall further demonstrate that (1) the release rate of stormwater runoff to adjacent wetlands and ESHA shall not exceed the natural rate of stormwater runoff for a 50-year storm of 10-minute duration; (2) stormwater outfalls, culverts, gutters, and the like, shall be dissipated, and where feasible, screened. Special Condition No. 8 requires the applicant to submit an erosion and runoff control plan for the construction phase of the project that requires, in part, (1) design elements and/or Best Management Practices (BMPs) which will serve to minimize the volume and velocity of stormwater runoff leaving the developed site, and to capture sediment and other pollutants contained in stormwater runoff from the development, by facilitating on-site infiltration and trapping of sediment generated from construction; (2) soil grading activities shall be limited to the dry season; (3) a physical barrier consisting of silt fencing and/or bales of straw shall be erected downslope of any construction areas; and (4) vegetation on the site shall be maintained to the maximum extent possible. Special Condition No. 9 requires the applicant to submit an encroachment permit for any work within the Berry Street and Keller Avenue right-of-ways from the County for review and approval of the Executive Director prior to the issuance of the coastal development permit. The condition requires the applicant to inform the Executive Director of any changes to the project required by the County for the road improvements and not to incorporate such changes into the project until an amendment to this coastal development permit is obtained.

Finally, as discussed above, the subject property consists of six separate, legal, adjacent, 40-ft by 158-ft lots, which according to information submitted by the applicant, were created by grant deed in 1926 (see Exhibit No. 3). At least four of the lots (the northern four) occur entirely within a wetland or wetland buffer on the property (see Exhibit No. 4). The proposed physical development of the site bisects the southern two lots. The applicants have proposed merging all six of the 6,320-square-foot adjacent lots comprising the property into a single separate legal parcel 37,920 square feet (0.87-acre) in size (Exhibit No. 13). Such a merger would be protective of wetland and ESHA resources because it would eliminate all wetland lots and lots on which future development could conflict with the wetland and water quality protection policies of the certified LCP. Therefore, the Commission attaches Special Condition No. 10. This condition requires the applicants to merge the lots as proposed by obtaining a Notice of Merger approval from Del Norte County for the subject lots prior to issuance of the coastal development permit, and submitting evidence of recordation of the merger prior to the commencement of all other development of the site.

3. Conclusion:

Therefore, for all of the reasons discussed above, the Commission finds that the proposed development, as conditioned, is consistent with the wetland and ESHA protection provisions of the certified LCP, including the provisions of Policies 1 and 3 of Section VI.C of the Marine and Water Resources (MWR) chapter of the certified LUP that wetlands be maintained; the requirements of Policies 6 and 4.f of MWR chapters VI.C and VII.D, respectively, that ESHA shall be protected against any significant disruption of habitat values, and development in areas adjacent to ESHA shall be sited and designed to prevent impacts which would significantly

degrade such areas; the requirements of Policy 4.a of MWR Section VII.E that riparian vegetation shall be maintained for its qualities as wildlife habitat, stream buffer zones, and bank stabilization; and the provisions of Policies 2, 3, 6, and 9 of Section V.C of the Marhoffer Creek Wetland Special Study (MCW) chapter of the certified LUP that Marhoffer Creek and its associated wetlands be protected and maintained for water quality, wildlife habitat, stream buffer, and riparian vegetation qualities.

F. Visual Resources

1. Applicable LCP Policies & Standards:

The Visual Resources chapter of the certified LUP, Section V (Policies and Recommendations), Subsection C (LCP Policies) states in applicable part:

1. *The County encourages the continuation of existing land uses, where appropriate, to maintain open views in highly scenic areas.*
2. *Proposed development within established highly scenic areas shall be visually compatible with their scenic surroundings, by being reflective of the character of the existing land uses while conforming to the land use criteria. As set forth in the land use component and subsequent zoning ordinance. (sic)*

...

2. Consistency Analysis:

The proposed development is not located in a designated highly scenic area and is located at least 500 feet from the nearest beach. The property is located east of Pebble Beach Drive and is separated by intervening parcels and streets from the shoreline and from the coastal bluffs along Pebble Beach Drive. Due to intervening residences to the south of the subject property, and due to the proposed development being a maximum of 22 feet high, the proposed development would not be visible from any public vantage points along Pebble Beach Drive.

The proposed development is compatible with the physical scale of development as designated in the land use plan and zoning for the subject parcel. The single family residence is proposed to be a maximum of 22 feet high, which is below the maximum structure height of 25 feet as allowed by the R1-B6 zoning designation. Additionally, according to information submitted by the applicants, the building footprint (including garage and shop) is proposed to be approximately 2,040 square feet in size, which is below (86 percent of) the average building footprint of 2,360 square feet for 31 developed properties within the subdivision in the immediate vicinity of the subject property. Furthermore, with the merger of all six lots on the property as proposed by the applicants and required by Special Condition No. 10, the proposed lot size of 37,920 square feet is over four times larger than the average lot size of 8,560 square feet for 31 developed properties within the subdivision in the immediate vicinity of the subject property. Percent lot coverage resulting from the proposed development would be 0.05 percent, which is only 20 percent of the average lot coverage for the 31 surrounding lots as discussed above (i.e., the average lot coverage of the 31 lots is more than five times greater than the lot coverage proposed by the applicants), and well below the permitted maximum lot coverage for the zoning district (35%).

Finally, as explained in Finding No. IV-E above, the project has been conditioned to restrict exterior lighting standards (Special Condition No. 6), which will further minimize any potential impacts of increased lighting in the area not only on biological resources, but on visual resources as well. Also as discussed above, Special Condition No. 3 requires the applicant to record a deed restriction detailing the specific development authorized under the permit, identifying all applicable special conditions attached to the permit, and providing notice to future owners of the terms and limitations placed on the use of the property, including these lighting restrictions to protect biological and visual resources.

Therefore, for all of the above reasons, the Commission finds that the project, as conditioned, is consistent with the visual resources protection policies of the certified LCP.

G. Public Access

1. Summary of Coastal Act Access Policies:

Coastal Act Sections 30210, 30211, and 30212 require the provision of maximum public access opportunities, with limited exceptions. Section 30210 states that maximum access and recreational opportunities shall be provided consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse. Section 30211 states that development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation. Section 30212 states that public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources, adequate access exists nearby, or agriculture would be adversely affected. In its application of these policies, the Commission is limited by the need to show that any denial of a permit application based on this section, or any decision to grant a permit subject to special conditions requiring public access is necessary to avoid or offset a project's adverse impact on existing or potential access.

2. Applicable LCP Policies & Standards:

The certified Del Norte County LUP includes a number of policies regarding standards for providing and maintaining public access. The Public Access chapter of the certified LUP, Section III (General Policies), Subsection C (LCP Policies) states in applicable part:

1. *The County shall work actively towards the attainment of maximum coastal access for the public, where it is consistent with public safety, property owner rights and the protection of fragile coastal resources.*

...

3. Consistency Analysis:

The parcel is located inland of the first through road paralleling the sea (Pebble Beach Drive). The proposed development would not affect public rights of access to the beach nor interfere with existing public access. Furthermore, the proposed project would not create any new demand

for public access or otherwise create any additional burdens on public access. Therefore, the Commission finds that the proposed development does not have any significant adverse impact on existing or potential public access, and that the project as proposed, which does not include provision of additional public access, is consistent with the requirements of the Coastal Act Sections 30210, 30211, and 30212 and the public access policies of the County's certified LCP.

H. Geologic Hazards

1. Applicable LCP Policies & Standards:

The Geologic Hazards chapter of the certified LUP states in applicable part:

...

4. *Residential development involving significant alteration of natural land forms or surface conditions shall be discouraged on slopes greater than 30 percent.*

...

2. Consistency Analysis:

As discussed above in Finding No. IV-B, the topography of the building site is mostly flat to gently sloping before the area slopes moderately to the creek below (see Exhibit No. 5). According to information in the local record and based on Commission staff's field observations of the project site, the proposed development would be located on slopes ranging from flat to less than 20 percent. As discussed above in Finding No. IV-E, the project is conditioned to require the use of Best Management Practices for erosion and runoff control during and post construction to minimize erosion of the slope above the wetland and ESHA on the property.

Therefore, the Commission finds that the project, as conditioned, is consistent with the geologic hazard policies of the certified LCP.

I. California Environmental Quality Act (CEQA)

Del Norte County is the lead agency for the project for the purposes of CEQA review. The County classified the project as categorically exempt (Class 3) from CEQA requirements.

Section 13096 of the Commission's administrative regulations requires Commission approval of coastal development permit applications to be supported by a finding showing the application, as modified by any conditions of approval, to be consistent with any applicable requirement of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available, which would substantially lessen any significant adverse effect the proposed development may have on the environment.

The Commission incorporates its findings on conformity with Coastal Act policies at this point as if set forth in full. These findings address and respond to all public comments regarding potential significant adverse environmental effects of the project that were received prior to preparation of the staff report. As discussed herein in the findings addressing the consistency of

the proposed project with the certified Del Norte County LCP, the proposed project has been conditioned to be found consistent with the certified Del Norte County LCP. Mitigation measures, which will minimize all adverse environmental impacts, have been required. As conditioned, there are no feasible alternatives or feasible mitigation measures available, beyond those required, which would substantially lessen any significant adverse impact that the activity may have on the environment. Therefore, the Commission finds that the proposed project can be found to be consistent with the requirements of the Coastal Act to conform to CEQA.

V. EXHIBITS

1. Regional Location Map
2. Vicinity Map
3. Assessors Map
4. Proposed Development Relative to Lots and ESHA
5. Site Topography & Slopes
6. Proposed Site Plan
7. Proposed Floor Plans & Building Elevations
8. Reduced Wetland Buffer Adequacy Analysis
9. Proposed Vegetation Removal for Cal-Fire Defensible Space Requirements
10. Open Space Area Subject to Deed Restriction
11. Appeal (Friends of Del Norte & James Snow)
12. Notice of Final Local Action & County Findings
13. Revised Project Description for Purposes of *De Novo* Review

ATTACHMENT A

STANDARD CONDITIONS:

1. Notice of Receipt & Acknowledgement

The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.

2. Expiration

If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.

3. Interpretation

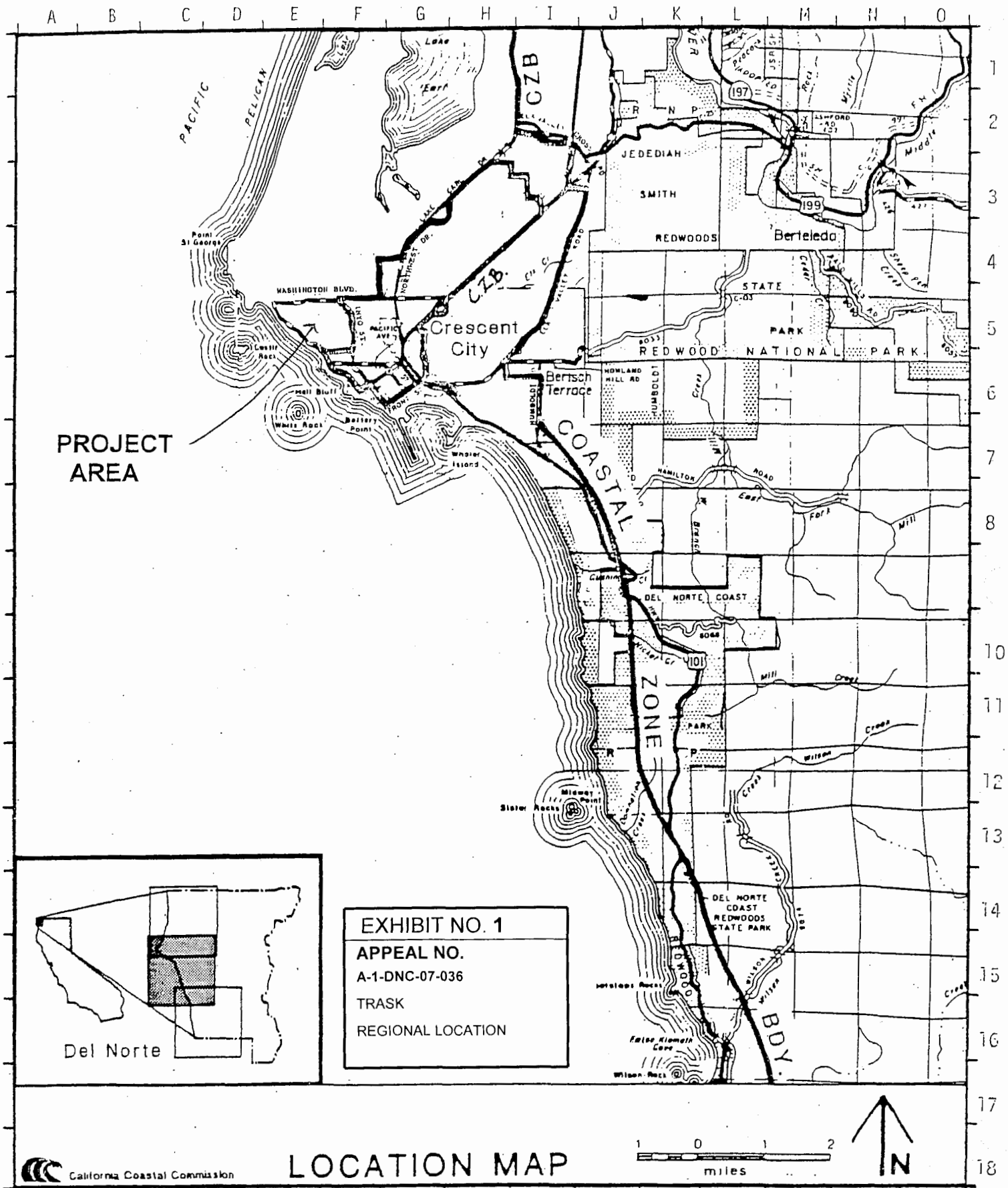
Any questions of intent of interpretation of any condition will be resolved by the Executive Director of the Commission.

4. Assignment

The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.

5. Terms & Conditions Run with the Land

These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.



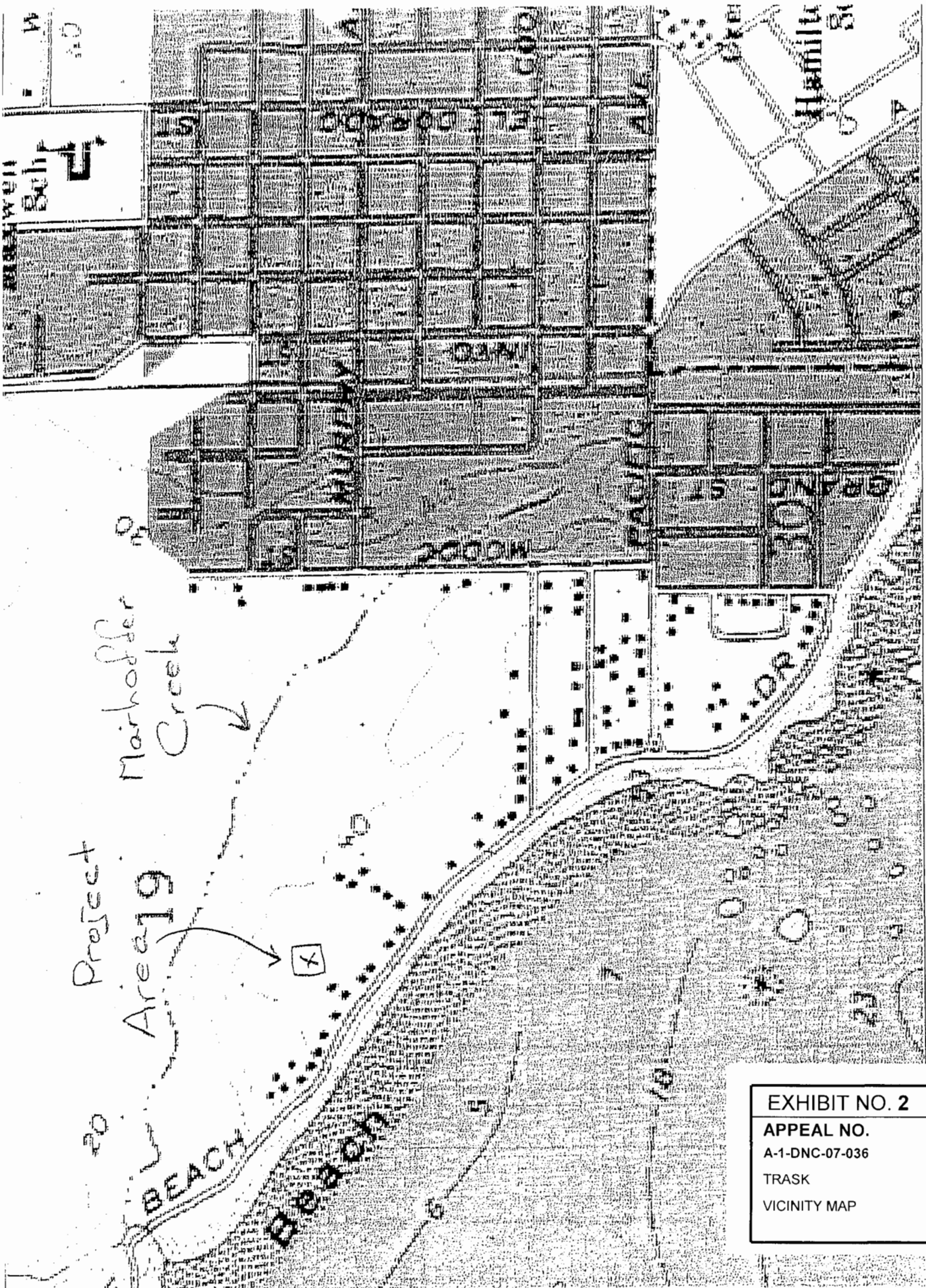


EXHIBIT NO. 2

APPEAL NO.
A-1-DNC-07-036
TRASK
VICINITY MAP

Location: 041° 45' 40.4" N 124° 13' 07.8" W
Caption: Location of Trask property relative to Marhoffer Creek drainage.



NOT AN OFFICIAL MAP
FOR ASSESSMENT PURPOSES ONLY

EXHIBIT NO. 3

APPEAL NO.

A-1-DNC-07-036

TRASK

ASSESSOR'S MAP

EXHIBIT A

Trask, Adam
CDP New Residence

B28832C
120-035-02

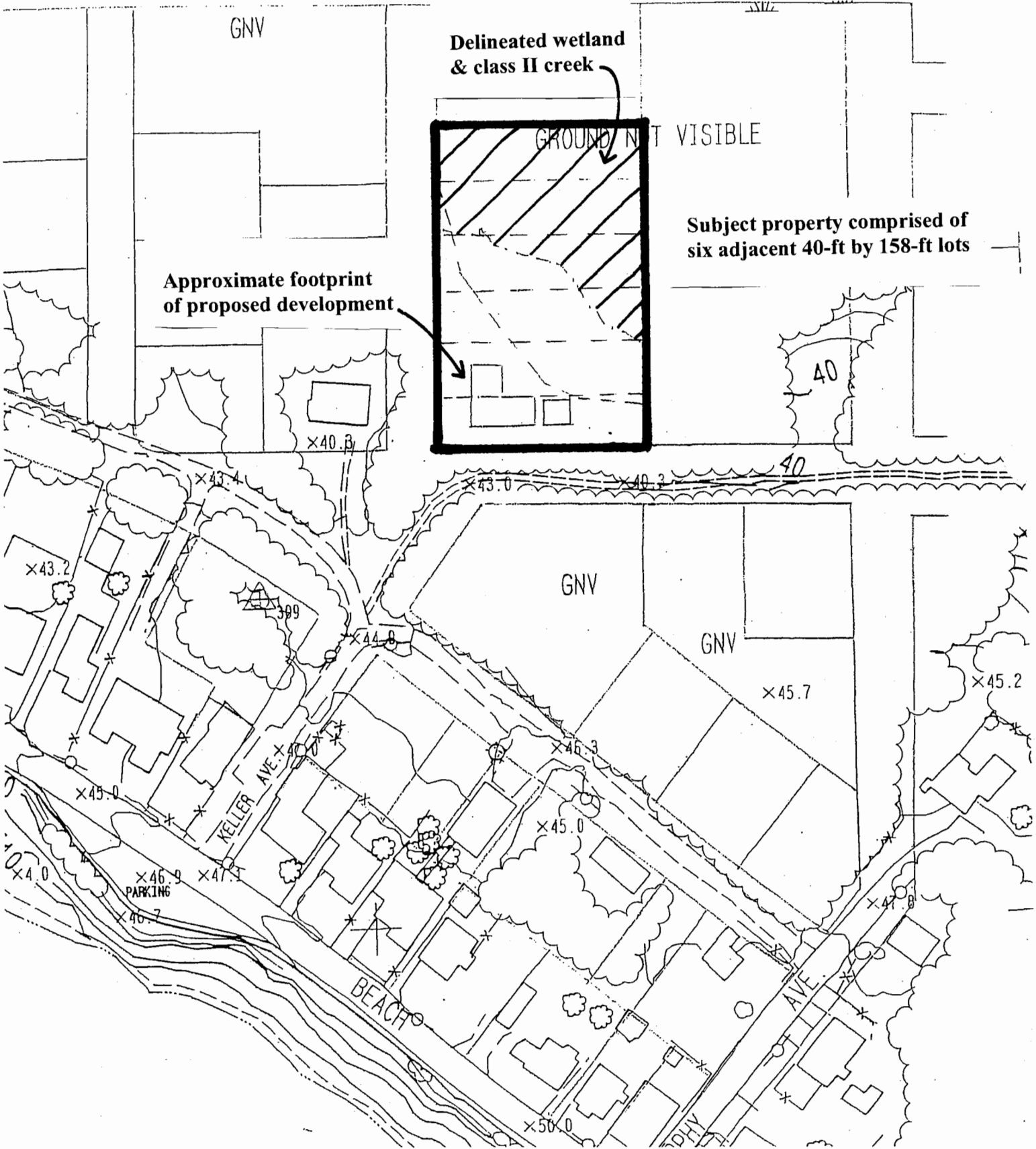
EXHIBIT NO. 4

APPEAL NO.

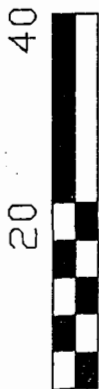
A-1-DNC-07-036

TRASK

PROPOSED DEVELOPMENT
RELATIVE TO LOTS & ESHA



N



SCALE: 1"=20'

VERIFY SCALES

BAR IS ONE INCH ON ORIGINAL DRAWING.

IF NOT ONE INCH ON THIS SHEET, ADJUST SCALES ACCORDINGLY.

EXHIBIT "N"

Contour interval 1'

10' offset line

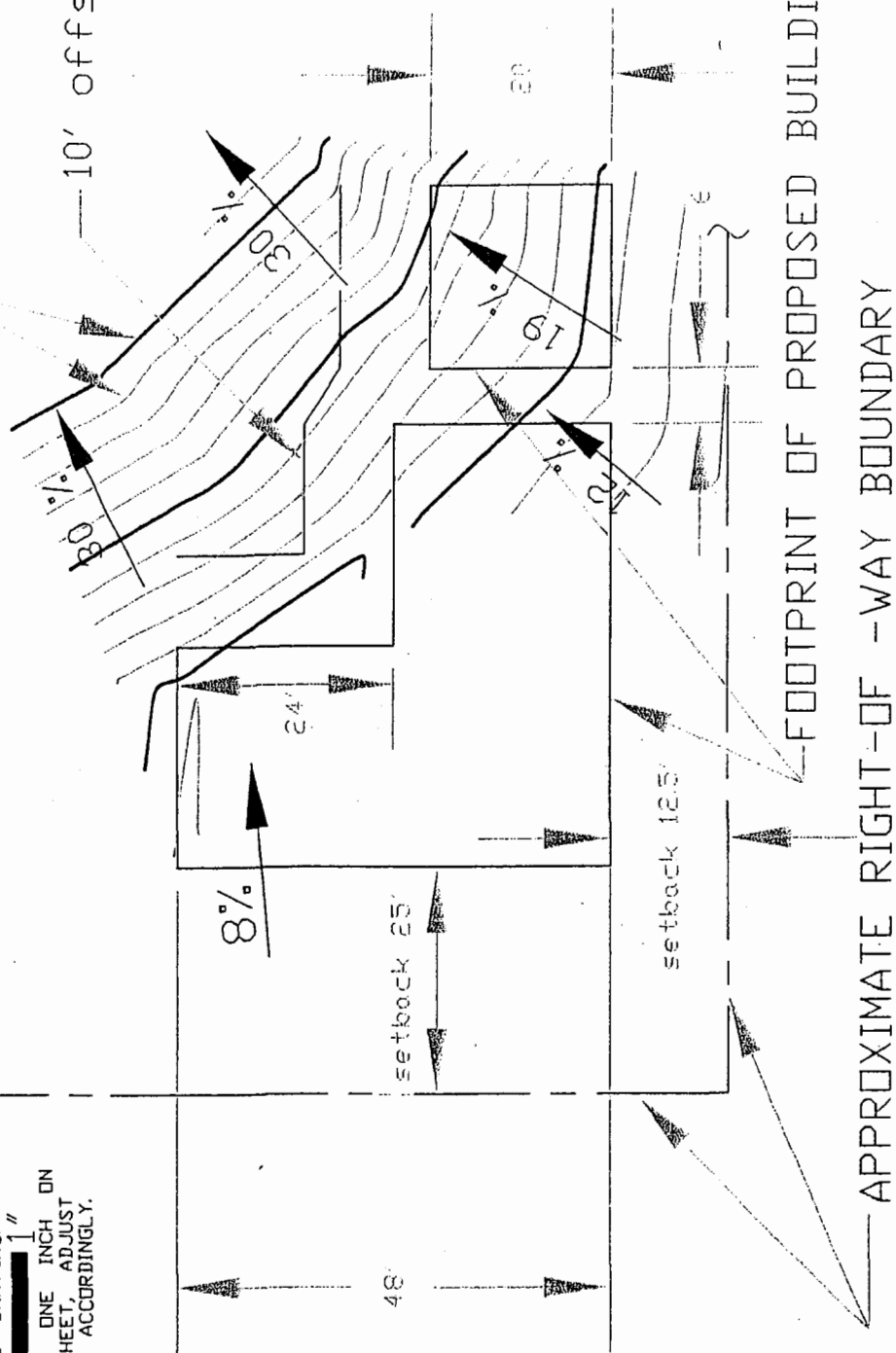


EXHIBIT NO. 5

APPEAL NO.

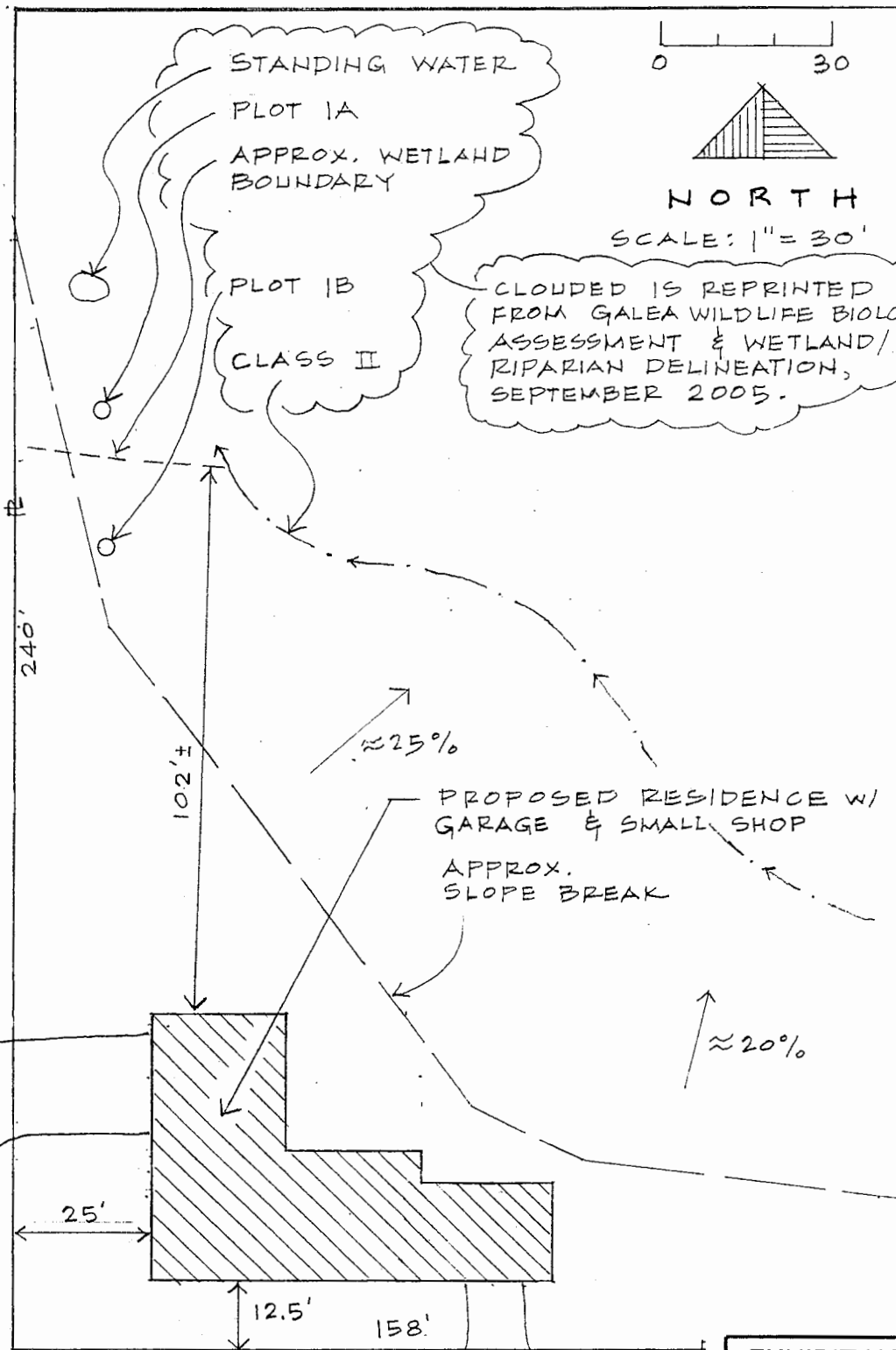
A-1-DNC-07-036

TRASK

SITE TOPOGRAPHY AND SLOPES

Surveyed and drawn by Engineering Division of
Community Development Department of
Del Norte County on 08/01/2007

BERRY ST.



KELLER AVE

NOTE:
WATER SERVICE IS FROM
CRESCENT CITY WATER
SYSTEM.
SEWER SERVICE FROM
D.H. CO.

EXHIBIT NO. 6

APPEAL NO.

A-1-DNC-07-036

TRASK

PROPOSED SITE PLAN

PROPOSED ALTERNATIVE

PLOT PLAN

APN 120-035-02

72'-0"

24'-0"

4'

20'-0"

FLOOR AREAS:

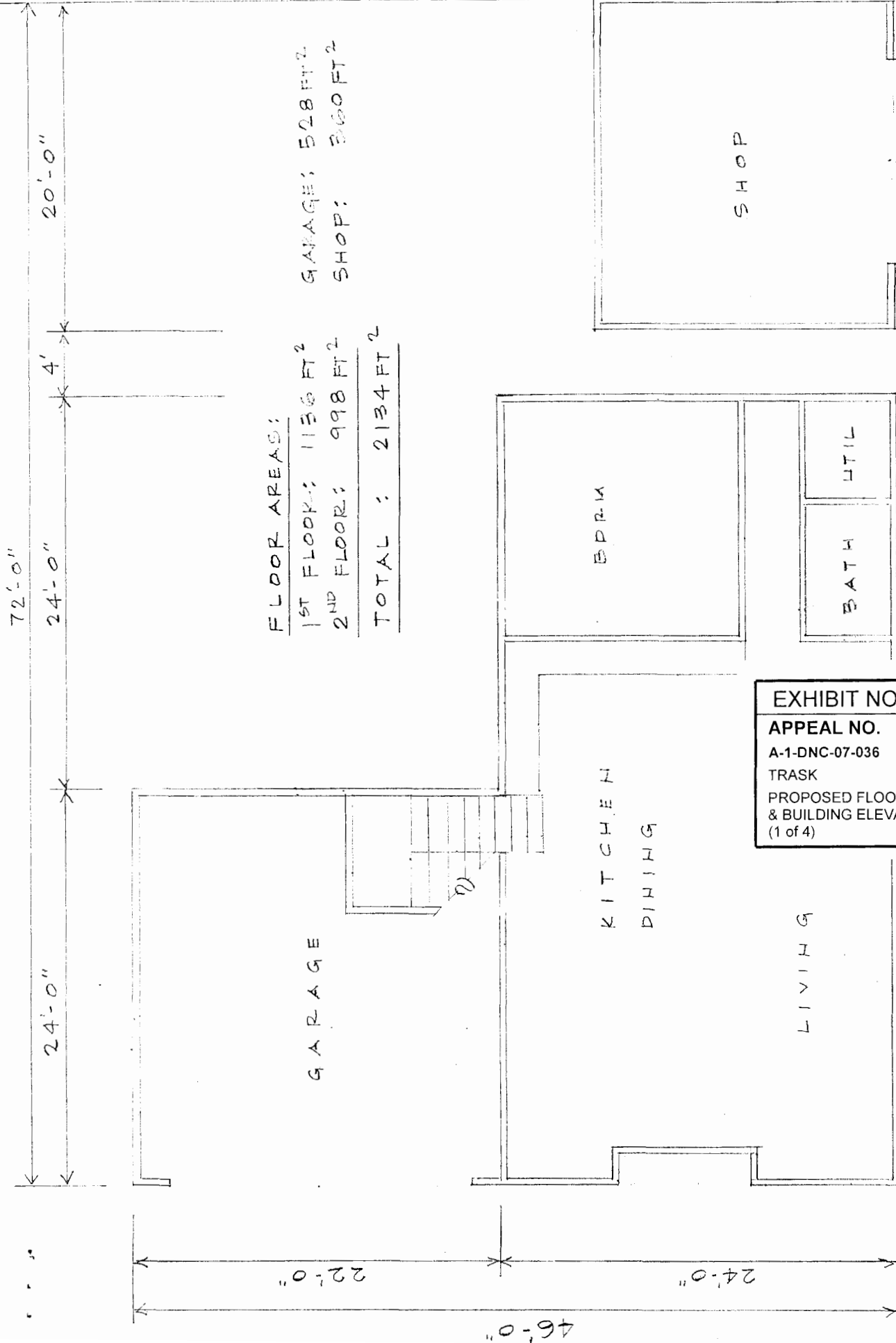
1ST FLOOR: 1136 FT²

2ND FLOOR: 998 FT²

TOTAL : 2134 FT²

GARAGE: 528 FT²

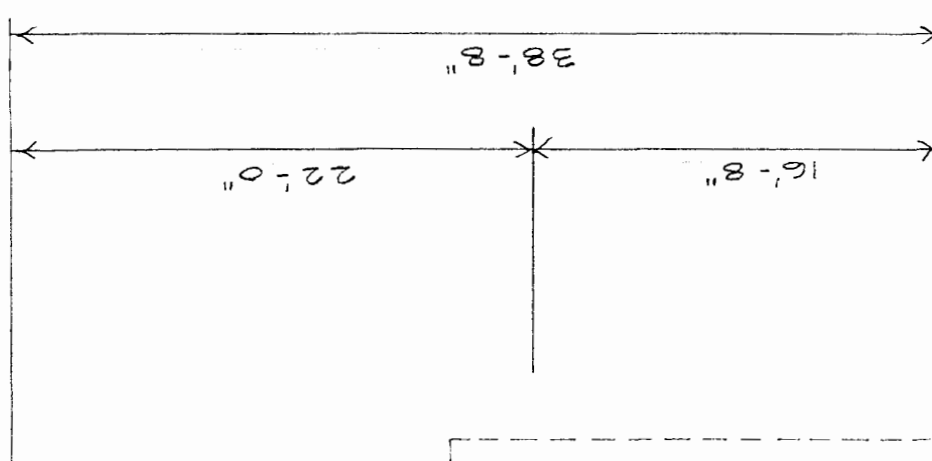
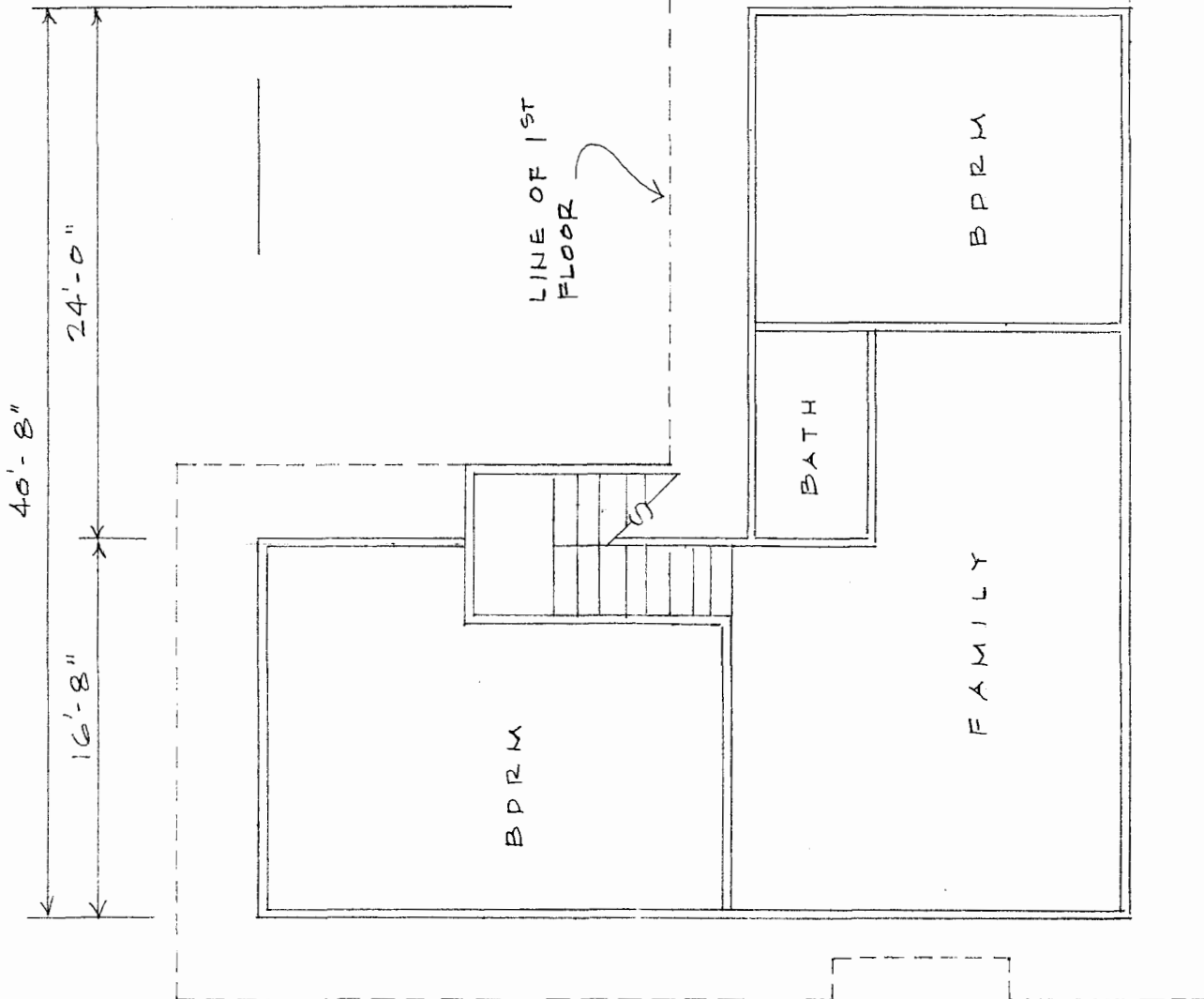
SHOP: 360 FT²



ALTERNATE RESIDENCE
AADAM & TAMM TRASK
APH 120-035-02

FIRST FLOOR PLAN

SCALE: 1/8" = 1'-0"



294

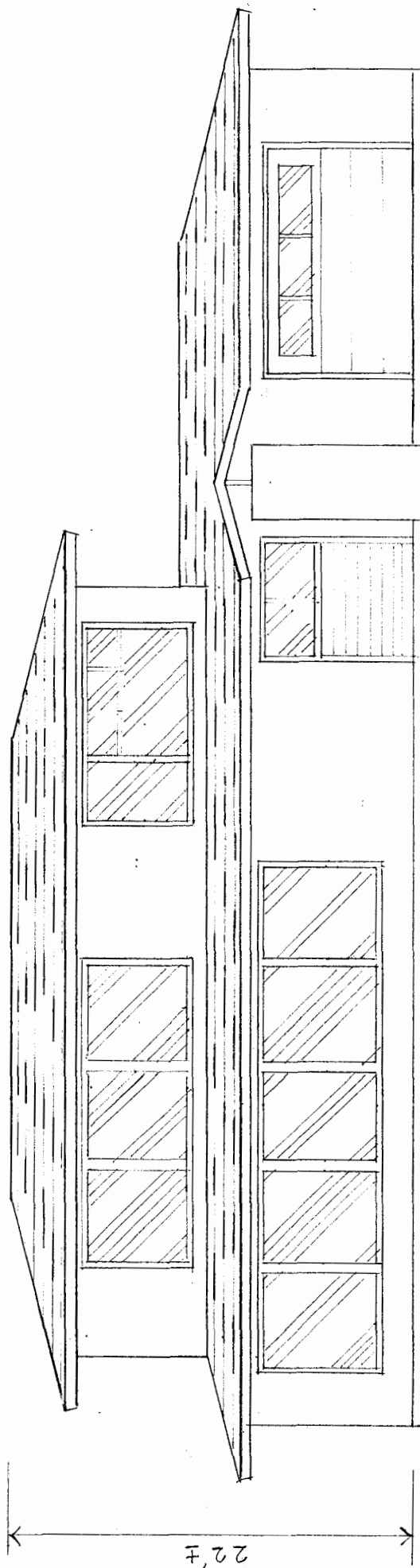
ALTERNATE RESIDENCE
 AADAM & TAMI TRASK
 APN 120-035-02

SECOND FLOOR PLAN

SCALE: 1/8" = 1'-0"

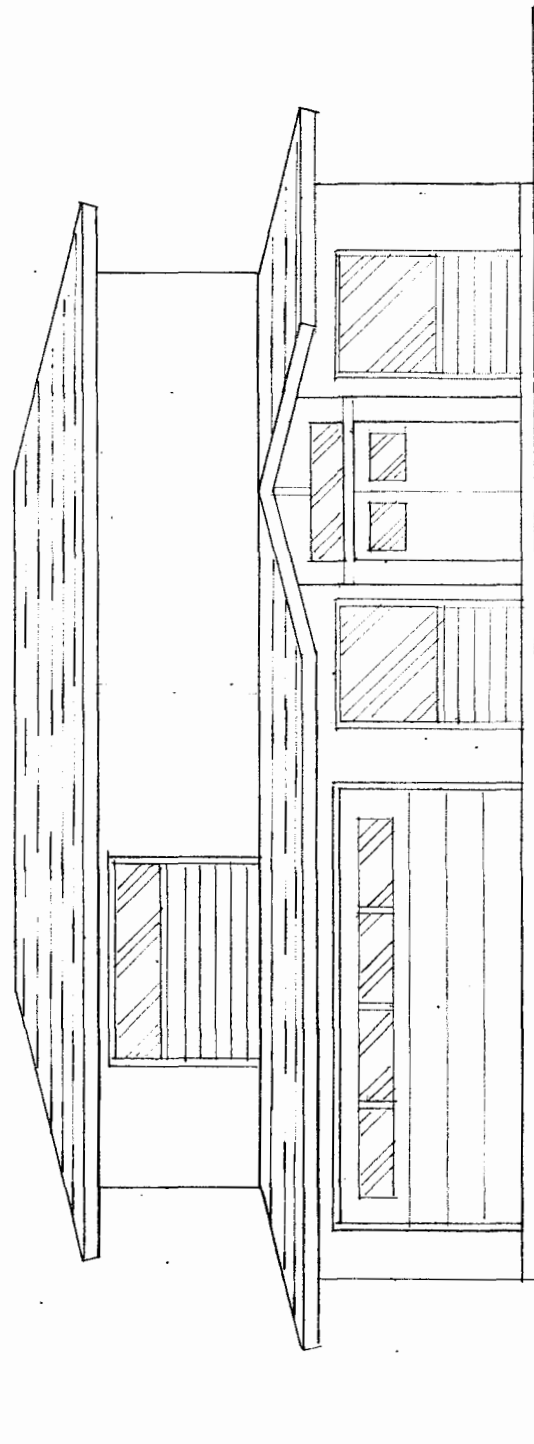
ALTERNATE RESIDENCE
ADAM & TAMI TRASK
APN 120-035-02

304



WEST ELEVATION

ALTERNATE RESIDENCE
ADAM & TAMM TRASK
APN 120-035-02



NORTH ELEVATION

SCALE: 1/8" = 1'-0"



GALEA WILDLIFE CONSULTING

200 Raccoon Court . Crescent City . California 95531

Tel: 707-464-3777

E-mail: frankgalea@charter.net . Web: www.g

EXHIBIT NO. 8

APPEAL NO.

A-1-DNC-07-036

TRASK

**REDUCED WETLAND BUFFER
ADEQUACY ANALYSIS**

(1 of 18)

BIOLOGICAL ASSESSMENT AND WETLAND / RIPARIAN DELINEATION, PARCEL # 120-035-02,
KELLER AVENUE. SEPTEMBER, 2005.

INTRODUCTION

This parcel lies on the corner between Keller Avenue (existing) and Berry Street (non-existing). The property is approximately 158 feet wide (along Keller) and 240 feet long (to the north). The southwest corner of the property is at the same elevation as Keller Avenue, however most of the remainder of the property drops into the Marhoffer Creek drainage. The drop-off is relatively steep, at 20 to 25 percent, thus drainage toward the north is excellent.

The east fork of the Marhoffer Creek drainage is best described as a swamp. Dense vegetation, large rootwads and flooded areas all contribute to this assessment.

Marhoffer Creek: This is a coastal creek which flows directly into the ocean at Pebble Beach. The creek forks just inland from the Pebble Beach Drive, with one form heading north and the other due east. It is the east fork which this property is associated with. Although Marhoffer may potentially have anadromous fish runs, this property is associated with the wetlands and riparian areas south of the primary watercourse.

METHODS

I visited the site several times in March of 2005. The delineation between wetland and non-wetland habitats was somewhat discernable based upon vegetation and the site's visual hydrology. To validate the extent of wetland habitats, sample plots ten feet in diameter were assessed using the routine wetland delineation method. Sample plots were set on either side of the apparent line between wetland and upland habitats along an axis perpendicular to the watercourse, and sampling continued until definitive results demonstrated one sample in wetland and an adjacent sample in upland along the axis. Plots were also used to determine if wetland conditions existed adjacent to the watercourse.

Each sample plot was assessed for wetland and upland plants and soils. A soil test pit was dug to determine soil type, water and moisture depth, and if soil reduction was occurring at the location, as determined by gleyed soils or other hydric indicators. Soil color was determined using Munsell soil color charts. All data collected was recorded on Routine Wetland Determination forms as provided in the U.S. Army Corp of

Engineers 1987 Manual. Once a delineation between upland and wetland habitats was determined, the delineation line was marked with red flagging hung on vegetation along the line.

The project site was also reviewed for its potential for: (a) demonstrable use of the area by wetland-associated fish and wildlife resources; (b) related biological activity; and (c) wetland habitat values, as recommended by the California Coastal Commission. This information is valuable in making a determination as to the size of buffers which may be applicable surrounding any wetland habitats found on the property.

The vascular plants associated with each of the four wetland sampling sites were assigned an indicator from the U.S. Fish and Wildlife Service *1996 National List of Plant Species that Occur in Wetlands for California*. The indicator assigned to a species designates the probability of that species occurring in a wetland, as follows:

OBL	- obligate wetland plants with > 99% occurrence in wetlands
FACW	- facultative wetland plants with 67-99 99% occurrence in wetlands
FAC	- facultative plants with 34-66% occurrence in wetlands
FACU	- facultative upland plants with 1-33% occurrence in wetlands
UPL	- obligate upland plants with <1% occurrence in wetlands
NI	- no indicator (insufficient information) for the region
NL	- not listed (rated as upland)
plus sign(+)	- frequency toward higher end of a category
minus sign(-)	- frequency toward lower end of a category
asterisk(*)	- indicates tentative assignment based on limited information.

The predominance of hydrophytic vegetation, and subsequent determination of a wetland, is calculated using one of two methods, the 50/20 Rule and the Prevalence Index. The 50/20 Rule (Federal Interagency Committee for Wetland Delineation 1989) is a dominance ratio. When using the 50/20 Rule, greater than 50 percent of the plants must be facultative, facultative wet, or obligate wet species for a site to be considered wetland.

RESULTS

The upland portion of the property consists of very young pine, spruce (*Picea sitchensis*) and chitum (*Rhamnus purshiana*) trees, with an understory of huckleberry (*Vaccinium ovatum*), Himalayan blackberry (*Rubus discolor*) and swordfern (*Polystichum munitum*). Below the upper area, to the north, the vegetation becomes far more dense and almost all of it is covered with an infestation of English Ivy (*Hedera helix*), which covers the understory, herbaceous and shrub layers and is invading the hardwood canopy above. The ivy grows down to and partially into the delineated wetland area.

Wetland and Riparian Delineation

Three transects were used to determine the extent of wetlands or creeks within or adjacent to the property.

Transect 1. Farthest west on the parcel.

Standing water was located some distance north of the obvious break in slope, just east of the western property line. on the property. No indicators of hydrology higher than the standing water was evident. Vegetation at the standing water was alder, chitum and spruce overstory. Few wetland plants were evident near the water, but more in greater density and diversity were visible farther to the north (40-50 feet) into the swamp area.

Sample plots were place above the standing water, then additional plots were used farther distances from the wet area until a delineation between apparent wetland and definite upland could be determined.

Plot 1A. Plot 1A was located approximately 25 feet up (south) of the standing water and 89 feet from the NW corner of the proposed house. Gleyed soils (hydric indicators), mildly damp, were located 12 inches down, above an "A" horizon of dense root mass and a "B" horizon of dark, damp sandy loam. Vegetation consisted of relatively dense salal (an upland species) which was covered with English ivy. The ivy had covered the herbaceous layer and excluded other plants. Ground cover was almost 100% ivy.

Although not reflected in the vegetation, this plot was deemed wetland due to the gleyed condition of the soil at 12 inches and the proximity of standing water at an elevation just below the plot. Appendix A contains data forms for all plots.

Plot 1B. This plot was located eight feet farther upslope (south) and away from the standing water. This site was approximately 2 feet higher in elevation than Plot 1A. A soil test pit was dry at 12 inches. Soils consisted of sandy loam with a lot of woody debris. Vegetation at this site was identical to Plot 1A, only more ivy. This plot was determined non-wetland due to lack of indicators in the soil, increased elevation from 1A with no hydrologic indicators, and a total lack of wetland vegetation. A delineation point between wetland and upland was therefore placed four feet north and just above the drop in elevation toward Plot 1A, 85 feet north of the NW corner of the proposed house.

Transect 2. Mid - parcel.

Sixty-six feet northeast of the staked northeast corner of the proposed house I located a very small Class II watercourse, a tributary of Marhoffer Creek, with a minimal amount of flow inside a small but defined channel. Normally such a channel would be defined as a Class III, however as it is located just south of Marhoffer Swamp is contains potential habitat for aquatic species and is therefore classified as a Class II.

The watercourse was slightly muddy and ran from southeast to northwest. Vegetation along the creek was upland herbaceous with a chitum overstory, much of which was covered in ivy. No wetland plants were evident near the watercourse.

Plot 2A. This plot was located six feet south of the watercourse with an increased elevation of approximately 18 inches. Vegetation here consisted of a spruce overstory with chitum below covered with English ivy. Ground cover consisted of 30 percent swordfern and 70 percent English ivy. A soils test resulted in dark, dry soil down to 18 inches. At the 18 inch line soils began to include a yellow-brown sandy clay layer, but was still dry. This was just after a period of relatively good rainfall. As this was determined to not have wetland attributes, I determined that this was a Class II watercourse without adjacent wetlands. I determined that a riparian buffer placed 50 feet from the top of bank of the Class II would provide adequate buffers to the watercourse and potential wetland areas beyond it.

Transect 3. East line of property.

Beginning at the southeast corner of the property, I measured 70 feet north to the same Class II noted in Transect 2. The channel was not defined at this location and there was no indications of wetland conditions. There was no water visible in the channel. I determined that a riparian buffer placed 50 feet from the top of bank of the Class II would exceed recommended buffers, but would provide adequate buffers to the watercourse and potential wetland areas beyond it.

Summary of Wetland and riparian delineations.

A Class II watercourse comes into this parcel from the east. This watercourse feeds into the swamp area located in the northwest corner of this parcel, although it's exact delineation is not possible due to excessive brush. Riparian vegetation is not evident; the entire area is primarily upland vegetation or brush. Riparian buffers of 50 feet from top of bank are recommended for this watercourse.

Three transects were used to determine the extent of wetlands and watercourses on this narrow lot. Wetlands were located in the northwest corner. Additional wetlands are likely located farther to the north of the creek, however their delineations behind the watercourse are not necessary for resource protection as the 50 foot buffer from the creek exceeds potential wetland buffers.

Demonstrable use of the area by wetland-associated fish and wildlife resources - This parcel is located in a residential area and a home with outbuildings and development exists immediately to the west. All of this parcel is covered in dense brush and young trees. English ivy has invaded and covers a large portion of the property.

After several visits to the property there was no visible use of wetland associated wildlife. Trees were not large enough for large raptors such as osprey, and no snags were evident. The lack of standing water in the area greatly decreased the potential for wetland-associated sensitive species or fish. The building site is at least 18 feet higher in elevation than the swam area to the north.

Related biological activity - The Marhoffer Creek swamp is located along the north edge of the property, at an elevation 18 feet lower than the south end of the parcel. East of the parcel are undeveloped lots in early seral stages of re-growth. West and south of the parcel are previously developed homesites. Any related biological activity would come from the north only, and this would be addressed by providing buffers to the resource.

Wetland habitat values - The Marhoffer Creek area adjacent to the parcel is a dense swamp. Vegetation is thick and impenetrable. No standing water in the form of deep ponds, perennial creeks or other aquatic resources, which may attract fish, waterfowl, shorebirds or other sensitive wetland-dependant species was evident on or near the property.

Agency Recommendations

In September, 2003 the California Department of Fish and Game released "Biological Protection Recommendations" which included definitions and recommendations for wetland and riparian protection and buffers. These guidelines were created for the entire Northern California area, including inland areas.

Riparian habitat was defined as "an association of plant species growing adjacent to fresh-water courses, including perennial and intermittent streams, lakes and other bodies of fresh water...in most cases the plants are here only because the water is there" (page 4). The document also lists a number of reasons why riparian habitats are important to biological resources (Page 2).

Recommended buffers to watercourses and /or riparian habitats were based upon those used for the Sacramento River, the largest river system in California. As an example, the agency recommended a 150 foot buffer from top of bank for large rivers or 75 feet of buffer from the outside edge of existing riparian. Lesser buffers are recommended for main and secondary tributaries (Page 4), using increments of 50 feet less buffer per order of stream size. These are recommendations for the most pristine conditions, in situations where sensitive resources require protection from development and disturbance.

The Marine and Water Resources Policy VII.D.4f of the Del Norte County Land Use Plan calls for a default 100-foot-wide buffer between development and the edge of a wetland. Buffers of less than 100 feet may be utilized where it can be determined that there is no adverse impact on the wetland.

Reduced Wetland Buffer

The wetland area located in the northwest corner of the property is a dense tangle of vegetation and brush which continues a good distance into the Marhoffer Creek drainage. Vegetation between the highest upland portion in the southwest corner of the property and the wetland area is also dense brush, most of it covered in invasive English Ivy. A drop-off of approximately 18 feet occurs between the proposed home site and the wetland area. The wetland edge was delineated at 85 feet north of the proposed house site.

Building a house as proposed on the parcel map would result in a wetland buffer of 85 feet instead of 100 feet. This would not have an adverse impact on the wetland as 1) there is already a home directly adjacent with development closer to the existing wetland 2) the amount of brush between the proposed home and the wetland is excessive and provides an adequate barrier and 3) the conditions at the wetland are shallow swamp which extends well to the north, therefore sensitive wildlife species have adequate habitats for nesting and movement well away from the proposed homesite.

A mitigation condition for the reduced buffer should be that no vegetation can be removed between the homesite and the wetland area unless it is in association with the removal of English ivy. The ivy is currently very invasive at this site and will eventually choke out the existing native plants, including some overstory trees such as chitum, resulting in a lowered buffer of vegetation than currently exists.

STAFF QUALIFICATIONS

Habitat assessment and report writing for this project was conducted by Principal Biologist, Frank Galea. Frank is the primary Biological Consultant and owner of Galea Wildlife Consulting, established in 1989. Frank is Certified as a Wildlife Biologist through the Wildlife Society. Frank's qualifications include a Master of Science Degree in Wildlife Management from Humboldt State University and a Bachelor of Science in Zoology from San Diego State University. Frank has been assessing habitat and conducting field surveys for Threatened and Endangered species for over 12 years. Frank has taken an accredited class on wetland delineation through the Wetland Training Institute, and has successfully completed a Watershed Assessment and Erosion Treatment course through the Salmonid Restoration Federation.

Botanical and wetland assessment was conducted by consulting botanist Lindsay Herrera. Lindsay has a B.S. in Environmental Science with a minor in Botany from Humboldt State University. She has five years of experience conducting rare plant surveys, habitat assessments, collecting botanical field data and preparing species lists. She has successfully completed the 38-hour Army Corps of Engineers Wetland Delineation Training as taught by Richard Chinn Environmental Training.

LIST OF REFERENCES

- California Department of Fish and Game, 2003. *Biological Protection Recommendations*.
- Guard, J.B. 1995. *Wetland Plants of Oregon & Washington*. Lone Pine Publishing, Redmond, Washington.
- Munsell, 1992. *Munsell Soil Color Chart*. Macbeth Publishing, Newburgh, New York
- Richardson, J.L., and M.J. Vepraskas, Eds. 2001. *Wetland Soils, Genesis, Hydrology, Landscapes and Classification*. Lewis Publishers, Boca Raton, Florida.
- Tiner, R.W., 1999. *Wetland Indicators, A guide to Wetland Identification, Delineation, Classification and Mapping*. Lewis Publishers, Boca Raton, Florida.
- Wetland Training Institute, Inc., 1991. *Field Guide for Wetland Delineation: 1987 Corp of Engineers Manual*. WTI 91-2. 133 pp.

Standing Water

APPROX. WETLAND BOUNDARY



NORTH
SCALE: 1" = 30'

Plot 1A

Plot 1B

S.T.

BERRY

240'

85'

12'-6"

66'

≈ 25%

PROPOSED RESIDENCE

APPROX. SLOPE BREAK

70'

≈ 20%

25'

15B'

KELLER AVE

APPENDIX A

WETLAND DELINEATION DATA FORMS



GALEA WILDLIFE CONSULTING

200 Raccoon Court . Crescent City . California 95531

Tel: 707-464-3777

E-mail: frankgalea@charter.net . Web: www.galcawildlife.com



RECEIVED

MAR - 7 2007

PLANNING
COUNTY OF DEL NORTE

ADDENDUM TO BIOLOGICAL ASSESSMENT AND WETLAND / RIPARIAN DELINEATION,
PARCEL # 120-035-02, KELLER AVENUE. MARCH 2006

INTRODUCTION

This parcel lies on the corner between Keller Avenue (existing) and Berry Street (non-existing). The property is approximately 158 feet wide (along Keller) and 240 feet long (to the north). The southwest corner of the property is at the same elevation as Keller Avenue, however most of the remainder of the property drops into the Marhoffer Creek drainage. The drop-off is relatively steep, at 20 to 25 percent, thus drainage toward the north is excellent.

Galea Wildlife Consulting (GWC) conducted a wetland delineations and biological assessment of the property in 2005. Normally, a 100 foot buffer to wetlands is required to protect wetland resources. However, the Applicant seeks a reduced buffer of 85 feet between construction of a new home and the wetland edge. In their initial report, GWC provided justification for a reduced buffer.

As this property is within the coastal zone, there are criteria outlined in the County Local Coastal Plan which need to be considered when determining buffer widths. The following is a response to these criteria:

1). Biological significance of adjacent lands: The subject property is located south of the Marhoffer Creek swamp. Immediately to the west of the property is a home site already occupied. To the east are vacant properties. A drop-off of approximately 18 feet on the property occurs between the proposed home site and the wetland area. This acts as a natural barrier between the home site and the swamp. Additionally, upland vegetation between the highest upland portion in the southwest corner of the property and the wetland area is also dense brush, most of it covered in invasive English Ivy.

No functional relationships between the property and species from the wetland area likely exist. There is no preferred habitat on the property which would cause wetland species to "spend a significant portion of their life cycle on adjacent lands". A topographic and vegetative barrier exists between the house site and the wetland area. An 85 foot buffer is adequate considering there is no functional relationship between species and the property.

2). Sensitivity of species to disturbance: The most likely species which could be disturbed in this area would be avian species, including osprey, egrets, wood ducks and other birds. A historic osprey nest existed in the wetland area at one time however the nest apparently blew out some years ago and no new nests are known of. As this wetland is relatively small, avian species using habitat in the wetland area are likely tolerant of human disturbance or they would not be using this area for breeding.

As homes are already built in the immediate area, including the adjacent lot, there would be no significant increase in disturbance. Therefore, short-term and long-term, those species which are adaptable to human presence and disturbance would not be affected. Species which do not tolerate human encroachment would not be in the immediate area as encroachment has already occurred.

3 - 5. These are non-biological issues.

6. Lot Configuration: This section notes that vegetative planting could be used as a mitigation, where less than a 100 foot buffer is proposed. In this case, vegetation is currently dense and provides a buffer, however the English Ivy which is encroaching there is a destructive pest plant and should be removed. A mitigation here could be ivy control and the planting of native replacement vegetation, such as red alder and huckleberry.

7. This is a non-biological issues.

Summary:

The proposed development of this parcel would not have any significant impacts on local wildlife species. This parcel is located directly adjacent to an existing home. Applicants have designed development to remain as far from biological resources as possible.

VII. STANDARDS FOR SITING DEVELOPMENT ADJACENT TO ENVIRONMENTALLY SENSITIVE HABITAT AREAS

The general policies for development adjacent¹⁸ to environmentally sensitive habitat areas appear in Section 30240(b) of the Coastal Act:

"Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade such areas, and shall be compatible with the continuance of such habitat areas."
(emphasis added)

A. Criteria for Reviewing Proposed Development Adjacent to Environmentally Sensitive Habitat Areas

As with development located in environmentally sensitive habitat areas, the key standard for evaluating development adjacent to such areas is the extent to which the proposed development maintains the functional capacity of such areas (the standards to evaluate whether the functional capacity is being maintained are located on page 17). A development which does not significantly degrade an environmentally sensitive habitat area will maintain the functional capacity of that area. The type of proposed development, the particulars of its design, location in relation to the habitat area, and other relevant factors all affect the determination of functional capacity.

Accordingly, the Commission may set limits and conditions to development adjacent to environmentally sensitive habitat areas based upon any or all of the following sections of the Coastal Act: 30230, 30231, 30233, 30236, and 30240. The Commission has required the following types of mitigation measures: setbacks; buffer strips; noise barriers; landscape plans; pervious surfacing with drainage control measures to direct storm run-off away from environmentally sensitive habitat areas; buffer areas in permanent open space; land dedication for erosion control; and wetland restoration, including off-site drainage improvements. This section only discusses the requirements for establishing the width of buffer areas. It does not discuss any other measures as noted above which may also be necessary and more appropriate to ensure that the development is compatible with the continuance of the habitat area.

B. Criteria for Establishing Buffer Areas

A buffer area provides essential open space between the development and the environmentally sensitive habitat area. The existence of this open space ensures that the type and scale of development proposed will not significantly degrade the habitat area (as required by Section 30240). Therefore, development allowed in a buffer area is limited to access paths, fences necessary to protect the habitat area, and similar users which have either beneficial effects or at least no significant adverse effects on the environmentally sensitive habitat area. A buffer area is not itself a part of the environmentally sensitive

¹⁸ Adjacent means situated near or next to, adjoining, abutting or juxtaposed to an environmentally sensitive habitat area. This will usually mean that any development proposed in an undeveloped area within a distance of up to 500 feet from an environmentally sensitive habitat area will be considered to be adjacent to that habitat area. In developed areas factors such as the nature, location and extent of existing development will be taken into consideration.

habitat area, but a "buffer" or "screen" that protects the habitat area from adverse environmental impacts caused by the development.

A buffer area should be established for each development adjacent to environmentally sensitive habitat areas based on the standards enumerated below. The width of a buffer area will vary depending upon the analysis. The buffer area should be a minimum of 100 feet for small projects on existing Lots₁ (such as one single family home or one commercial office building) unless the applicant can demonstrate that 100 feet is unnecessary to protect the resources of the habitat area. If the project involves substantial improvements or increased human impacts, such as a subdivision, a much wider buffer area should be required. For this reason the guideline does not recommend a uniform width. The appropriate width will vary with the analysis based upon the standards.

For a wetland, the buffer area should be measured from the landward edge of the wetland (Appendix D). For a stream or river, the buffer area should be measured landward from the landward edge of riparian vegetation or from the top edge of the bank (e.g., in channelized streams). Maps and supplemental information may be required to determine these boundaries. Standards for determining the appropriate width of the buffer area are as follows:

1. Biological significance of adjacent lands. Lands adjacent to a wetland, stream, or riparian habitat area vary in the degree to which they're functionally related to these habitat areas. That is, functional relationships may exist if species associated with such areas spend a significant portion of their life cycle on adjacent lands. The degree of significance would depend upon the habitat requirements of the species in the habitat area (e.g., nesting, feeding, breeding or resting). This determination requires the expertise of an ecologist, wildlife biologist, ornithologist or botanist who is familiar with the particular type of habitat involved. Where a significant functional relationship exists, the land supporting this relationship should also be considered to be part of the environmentally sensitive habitat area, and the buffer area should be measured from the edge of these lands and be sufficiently wide to protect these functional relationships. Where no significant functional relationships exist, the buffer should be extended from the edge of the wetland, stream or riparian habitat (for example) which is adjacent to the proposed development (as opposed to the adjacent area which is significantly related ecologically).
2. Sensitivity of species to disturbance. The width of the buffer area should be based, in part, on the distance necessary to ensure that the most sensitive species of plants and animals will not be disturbed significantly by the permitted development. Such a determination should be based on the following:
 - a. Nesting, feeding, breeding, resting or other habitat requirements of both resident and migratory fish and wildlife species.
 - b. An assessment of the short-term and long-term adaptability of various species to human disturbance.
3. Susceptibility of parcel to erosion. The width of the buffer area should be based, in part, on an assessment of the slope, soils, impervious surface coverage, runoff characteristics, and vegetative cover of the parcel and to what degree the development will change the potential for erosion. A sufficient buffer to allow for the interception of any additional material eroded as a result of the proposed development should be provided.

4. Use of natural topographic features to locate development. Hills and bluffs adjacent to environmentally sensitive habitat areas should be used, where feasible, to buffer habitat areas. Where otherwise permitted, development should be located on the sides of hills away from environmentally sensitive habitat areas. Similarly, bluff faces should not be developed, but should be included in the buffer area.
5. Use of existing cultural features to locate buffer zones. Cultural features, (e.g., roads and dikes) should be used, where feasible, to buffer habitat areas. Where feasible, development should be located on the side of roads, dikes, irrigation canals, flood control channels, etc., away from the environmentally sensitive habitat area.
6. Lot configuration and location of existing development. Where an existing subdivision or other development is largely built-out and the buildings are a uniform distance from a habitat area, at least that same distance will be required as a buffer area for any new development permitted. However, if that distance is less than 100 feet, additional mitigation measures (e.g., planting of native vegetation which grows locally) should be provided to ensure additional protection. Where development is proposed in an area which is largely undeveloped, the widest and most protective buffer area feasible should be required.
7. Type and scale of development proposed. The type and scale of the proposed development will, to a large degree, determine the size of the buffer area necessary to protect the environmentally sensitive habitat area. For example, due to domestic pets, human use and vandalism, residential developments may not be as compatible as light industrial developments adjacent to wetlands, and may therefore require wider buffer areas. However, such evaluations should be made on a case-by case basis depending upon the resources involved, and the type and density of development on adjacent lands.

Adopted February 4, 1981

VIII. RESTORATION AND MAINTENANCE OF WETLAND HABITAT AREAS

THIS SECTION WAS RESCINDED ON 6/13/00



GALEA WILDLIFE CONSULTING

200 Raccoon Court . Crescent City . California 95531

Tel: 707-464-3777

E-mail: frankgalea@charter.net . Web: www.galeawildlife.com



ADDENDUM TO BIOLOGICAL ASSESSMENT AND WETLAND / RIPARIAN DELINEATION, PARCEL # 120-035-02, KELLER AVENUE. APRIL 2007

INTRODUCTION

This parcel lies on the corner between Keller Avenue (existing) and Berry Street (non-existing). The property is approximately 158 feet wide (along Keller) and 240 feet long (to the north). The southwest corner of the property is at the same elevation as Keller Avenue, however most of the remainder of the property drops into the Marhoffer Creek drainage. The drop-off is relatively steep, at 20 to 25 percent, thus drainage toward the north is excellent.

Galea Wildlife Consulting (GWC) conducted a wetland delineations and biological assessment of the property in 2005. A distance of 100 feet (the buffer) between the proposed house site and wetlands was established by placing the house as far southwest into the property as possible.

A very small, Class II drainage creek flows through the property from southeast to northwest. In March of 2005 this watercourse was dry at the east side of the property, where no defined channel was found and there were no indications of wetlands. Farther west a minimal channel was found which carried a minimal amount of flow. This watercourse feeds into the swamp area located toward the northwest corner of this parcel, although it's exact delineation is not possible due to excessive brush. Riparian vegetation is not evident; the entire area is primarily upland vegetation or brush.

The proposed home site location is limited by restraints caused by wetlands and county building codes. The house is proposed in the southwest corner of the property, 100 feet from the wetland to the north. This location, however, places the house within 100 feet of the Class II watercourse. At one point the distance between the proposed house site and the watercourse is 60 feet, however this distance gradually increases to 100 feet as the watercourse flows toward the northwest corner of the property, into the wetland.

The California Coastal Commission (CCC) considers the Class II watercourse to be an *Environmentally Sensitive Habitat Area* (ESHA), as it is a watercourse and a part of the Marhoffer marsh. The CCC suggests an ESHA's should also be provided with 100 foot buffers from development,

... unless it can be determined that there is no adverse impact on the wetland. A determination to utilize a buffer area of less than one-hundred feet shall be done in cooperation with the California Department of Fish and Game and the County's determination shall be based upon specific findings as to the adequacy of the proposed buffer to protect the identified resource (Section VII.D.4. of the Del Norte County Land Use Plan, section f).

As this property is within the coastal zone, criteria are outlined in the County Local Coastal Plan which need to be considered when determining buffer widths. The following is an analysis and justification for a reduced buffer to the ESHA, using these criteria:

1). Biological significance of adjacent lands: The subject property is located south of the Marhoffer Creek swamp. Immediately to the west of the property is a home site already occupied. The proposed homesite will be located farther back from wetlands than the existing home. To the east are vacant properties, most of which are located in the Marhoffer Creek drainage. Most of these properties were previously harvested for conifers, therefore vegetation is primarily second-growth spruce and alder forest. Wetland habitats are also found on adjacent parcels east of this subject property.

The ESHA is a very small watercourse flowing through conifer forest located along the southern edge of the Marhoffer Creek swamp. A drop-off of approximately 18 feet on the property occurs between the proposed home site and the ESHA. This acts as a natural barrier between the home site and the swamp. Additionally, upland vegetation between the highest upland portion in the southwest corner of the property and the ESHA is also dense brush, most of it covered in invasive English Ivy. This natural vegetation (although the English Ivy is not preferable) acts as visual and sound screening between the development and the marsh.

No functional relationships between the proposed building site and species from the ESHA likely exist. There is no preferred habitat on the property which would cause watercourse-dependant species (such as amphibians) to "spend a significant portion of their life cycle on adjacent lands". A topographic and vegetative barrier exists between the house site and the wetland area. A minimum 60-100 foot buffer is adequate considering there is no functional relationship between species and the property.

2). Sensitivity of species to disturbance: The most likely species which could be disturbed in the Marhoffer Creek marsh would be avian species, including osprey, egrets, wood ducks and other birds, however the primary marsh area is over 100 feet away. A historic osprey nest, located well north of this property, existed in the marsh area at one time however the nest apparently blew out some years ago and no new nests are known of. The intermittent Class II watercourse on this subject property is not large enough to provide habitat for wildlife species other than amphibians.

As homes are already built in the immediate area, including the adjacent lot, there would be no significant increase in disturbance. Therefore, short-term and long-term, those species which are adaptable to human presence and disturbance would not be affected. Species which do not tolerate human encroachment would not be in the immediate area as encroachment has already occurred.

3). Susceptibility of parcel to erosion: The proposed building site is located on a flat in the southwest corner of the parcel. North of the building site, the ground drops relatively quickly, with an 18 foot drop. This slope is covered with dense vegetation, typical of second-growth coastal spruce forest. At the bottom of the slope there is very dense vegetation before a small Class II is reached, approximately 60 feet from the edge of the proposed building.

No adjacent properties drain onto this property, therefore, the only runoff would be the limited amount from this parcel. Run-off from the house and outbuildings would be drained into the city storm drainage system. The house would be on the city water and sewer system, therefore no leach field or well is required.

Erosion would be controlled using best management practices (BMP's) during building. Included would be a). a flagged, no heavy-equipment zone located on the north edge of the building site, where equipment

would not be allowed to operate near the slope. b). A silt-retention fence along the slope between the ESHA and the building site, to be erected during any and all construction activities. c) natural vegetation would be retained on and below the slope to the fullest extent possible. d) no washing of equipment would be allowed on the north side of the building site, including wash-outs for concrete materials and e) all exposed soils would be seeded with a native grass mixture post-construction.

4). Use of natural topographic features to located development. The building site is located as far to the southwest of the parcel as possible, in order to maximize the distance between the ESHA and the building site. The building site is on the higher ground of the property, while the ESHA is at least 18 feet lower in elevation. No other building sites are possible on this parcel.

5). Use of existing cultural features to locate buffer zones: No cultural features are available to buffer the ESHA. The development is located as close to the access road and pre-existing buildings as possible.

6). Lot Configuration: This section notes that vegetative planting could be used as a mitigation where less than a 100 foot buffer is proposed. In this case, vegetation is currently dense and provides a buffer, however the English Ivy which is encroaching there is a destructive pest plant and should be removed. A mitigation here could be ivy control and the planting of native replacement vegetation, such as red alder and huckleberry, between the ESHA and the homesite.

7). Type and scale of development proposed: The owners are proposing a modest home with one small outbuilding, located in the extreme southwest corner of the property. The closest this building would be to the ESHA would be 60 feet, however this distance increases immediately as the Class II watercourse runs to the northwest. The siting of the proposed house is over 100 feet from wetlands other than the Class II watercourse.

The Marhoffer Creek drainage was specifically sited as an area of concern in the Del Norte County LCP. The following ten provisions in the LCP were provided to increase resource protection. A response to each concern is included under each numbered provision.

Marhoffer Creek Special Study Area (MCSSA)

1. Performance standards shall be developed and implemented which will guide development adjacent to upland marsh areas identified in the Marhoffer Creek study so as to permit utilization of land areas compatible with other policies while providing adequate maintenance of the subject marsh area.

For this application, the building site is located as far into the southwest corner of the property, where only upland habitat occurs, and the building site is as far from the marsh area as possible, thereby providing adequate maintenance of the marsh area.

2. A buffer strip shall be maintained in natural conditions around the Marhoffer Creek wetlands where adjacent land uses are found incompatible with the productivity or maintenance of the wetlands.

For this application, a buffer strip of 60 to 100 feet is applied. The minimal 60 feet is the least distance between the building and the marsh; the distance increases to over 100 feet for most of the building.

3. New development adjacent to the Marhoffer Creek wetlands shall not result in adverse levels of additional sediment, runoff, noise, wastewater or other disturbances.

This new development is a single family residence, which would not result in adverse levels of sediment, runoff, noise, or other disturbances. The house would be on the city water and sewer system, therefore no leach field or well is required, therefore no wastewater. See notes on sediment control in #3 of discussion above.

4. Snags shall be maintained with the Marhoffer Creek wetland for their value to wildlife.

No snags would be removed during construction of this project. No snags are in the immediate area of the building site.

5. No motorized vehicle traffic shall be permitted within the Marhoffer Creek wetlands except for agriculture and forestry.

No new roads would be created by this project. A road and access road to the property are pre-existing. An equipment exclusion zone would be used around the building site during construction.

6. Riparian vegetation along the course of Marhoffer Creek and its branch streams shall be maintained for their qualities of wildlife habitat and stream buffer zones.

No riparian vegetation would be removed by this project. Natural vegetation between the building site and the marsh would be retained on the property.

7. In areas where the boundary of the Marhoffer Creek wetland is in doubt a detailed survey of a parcel and the location of the wetland shall be required to determine the suitability of said parcel for dwelling or other building site and sewage disposal system before a permit is issued.

A wetland delineation has been conducted to determine the extent of the marsh, which are over 100 feet away, and the location of watercourses, a small Class II is 60 feet away.

8. The pasturelands in the Marhoffer Creek area provide valuable habitat for wildlife and therefore should be maintained in their existing use as agricultural grazing.

No pasture is on this property or any nearby. Pastureland is located over .5 miles from this project.

9. Vegetation removal in the Marhoffer Creek wetland shall be limited to that necessary to maintain the free flow of the drainage courses and only when excessive impediment creates flooding hazards on adjacent lands.

Except for clearing of the building site, which is upland vegetation, no other vegetation would be removed.

10. The County should encourage and support educational programs in schools, park programs and community organizations which seek to increase public awareness and understanding of sensitive habitats and the need for their protection.

The Applicant is willing to enter into a program whereby non-native, invasive vegetation, such as English ivy, is removed to maintain and restore native vegetation on the property.

Summary:

The proposed development of this parcel will have no significant impacts on local wildlife species, nor would there be any significant impacts to the Marhoffer Creek marsh. This parcel is located directly adjacent to an existing home, which will be closer to the Marhoffer Creek marsh complex than this proposed home. Applicants have designed development to remain as far from biological resources as possible.



GALEA WILDLIFE CONSULTING

200 Raccoon Court . Crescent City . California 95531

Tel: 707-464-3777

E-mail: frankgalea@charter.net . Web: www.galeawildlife.com

INFORMATION FOR *DE NOVO* REVIEW OF TRASK APPLICATION,

PARCEL # 120-035-02, KELLER AVENUE. MAY 2008

INTRODUCTION

This parcel lies on the corner between Keller Avenue (existing) and Berry Street (non-existing). The property is approximately 158 feet wide (along Keller) and 240 feet long (to the north). The southwest corner of the property is at the same elevation as Keller Avenue, however most of the remainder of the property drops into the Marhoffer Creek drainage. The drop-off is relatively steep, at 20 to 25 percent, thus drainage toward the north is excellent.

Galea Wildlife Consulting (GWC) conducted a wetland delineations and biological assessment of the property in 2005. A distance of 100 feet (the buffer) between the proposed house site and wetlands was established by placing the house as far southwest into the property as possible.

A very small, Class II drainage creek flows through the property from southeast to northwest. In March of 2005 this watercourse was dry at the east side of the property, where no defined channel was found and there were no indications of wetlands. Farther west a minimal channel was found which carried a minimal amount of flow. This watercourse feeds into the swamp area located toward the northwest corner of this parcel, although it's exact delineation is not possible due to excessive brush. Riparian vegetation is not evident; the entire area is primarily upland vegetation.

The proposed home site location is limited by restraints caused by wetlands to the north and county building codes. The house is proposed in the southwest corner of the property, 100 feet from the wetland to the north. This location, however, places the house within 100 feet of the Class II watercourse. At one point the distance between the proposed house site and the watercourse is 60 feet, however this distance gradually increases to 100 feet as the watercourse flows toward the northwest corner of the property, into the wetland.

The California Coastal Commission (CCC) considers the Class II watercourse to be an *Environmentally Sensitive Habitat Area* (ESHA), as it is a watercourse and a part of the Marhoffer marsh. The CCC suggests an ESHA's should also be provided with 100 foot buffers from development,

EXHIBIT NO. 9

APPEAL NO.

A-1-DNC-07-036 - TRASK
PROPOSED VEGETATION
REMOVAL FOR CAL-FIRE
DEFENSIBLE SPACE
REQUIREMENTS (1 of 12)

... unless it can be determined that there is no adverse impact on the wetland. A determination to utilize a buffer area of less than one-hundred feet shall be done in cooperation with the California Department of Fish and Game and the County's determination shall be based upon specific findings as to the adequacy of the proposed buffer to protect the identified resource (Section VII.D.4. of the Del Norte County Land Use Plan, section f.).

The following is a response to Information Request #1 contained within the CCC Staff Report, beginning on page 26, dated August 24th, 2007, for Appeal No. A-1-DNC-07-036. The other three information request questions are not applicable to biology and will be addressed by the Applicants or their Agent.

1. Analysis of Existing Vegetation and the Effects of Implementation of CALFire Defensible Space Requirements on Vegetation and Wetland and Creek ESHAs.

On March 14th, 2008, biologist Frank Galea and CalFire Inspector Jim Smith reviewed the defensible space requirements for the proposed Trask home site. Mr. Smith described the following recommendations to make the space around the homesite fire defensible, based on the location and conditions.

From the house perimeter out to 30 feet: Biomass (such as brush) should be removed or cut to a height of no more than 12 inches. All dead material should be removed. Trees within 30 feet of the home perimeter should be limbed, so that there is a 6-10 foot separation between any ground vegetation and the nearest limb on the tree. There should be no limb left within ten feet of the roofline. All cut brush and tree limbs should be removed off-site, or chipped on-site and distributed onto the ground, not left piled. The concept for this approach is to eliminate any potential for a fuel ladder to allow a ground fire to move into the tree canopy or reach the roof of the home.

From 30 feet to 60 feet around the house: Within this Zone of defense, trees should be limbed to the point that there is a separation of at least six feet, and preferably ten feet, between ground vegetation and the lowest tree limb. Single specimens of brush can remain, but separated from other brush species by 6-10 feet and the open distance must be maintained.

From 60 feet to 100 feet: Mr. Smith of Calfire stated that, in this case, there would be no additional measures required in the 60-100 foot zone, as conditions are not conducive to fire propagation. This was due to the moist conditions of the site (very near the ocean and located close to a marsh complex), an elevation difference between the 60-100 foot zone and the house site, and the type of vegetation (lush, green, brushy vegetation) found within the 60-100 foot zone.

Findings from Field Review and Discussion of Fire-Safe Methods: Preferred Alternative

In April of 2008 biologist Frank Galea conducted a field review of the project area. Larger trees to be affected by defensible-space improvements were measured, mapped and described as to the impacts to the trees to meet fire-safe recommendations (Figure 1). Vegetation within the 0-30 foot and the 30-60 foot zones were assessed as to fire-safe management and the resulting impacts to vegetation. Measurements were facilitated with a 200 foot measuring tape. Tree size (in diameter per breast height, or dbh) was visually assessed. Beyond 60 feet, trees and vegetation were assessed visually.

BERRY ST.

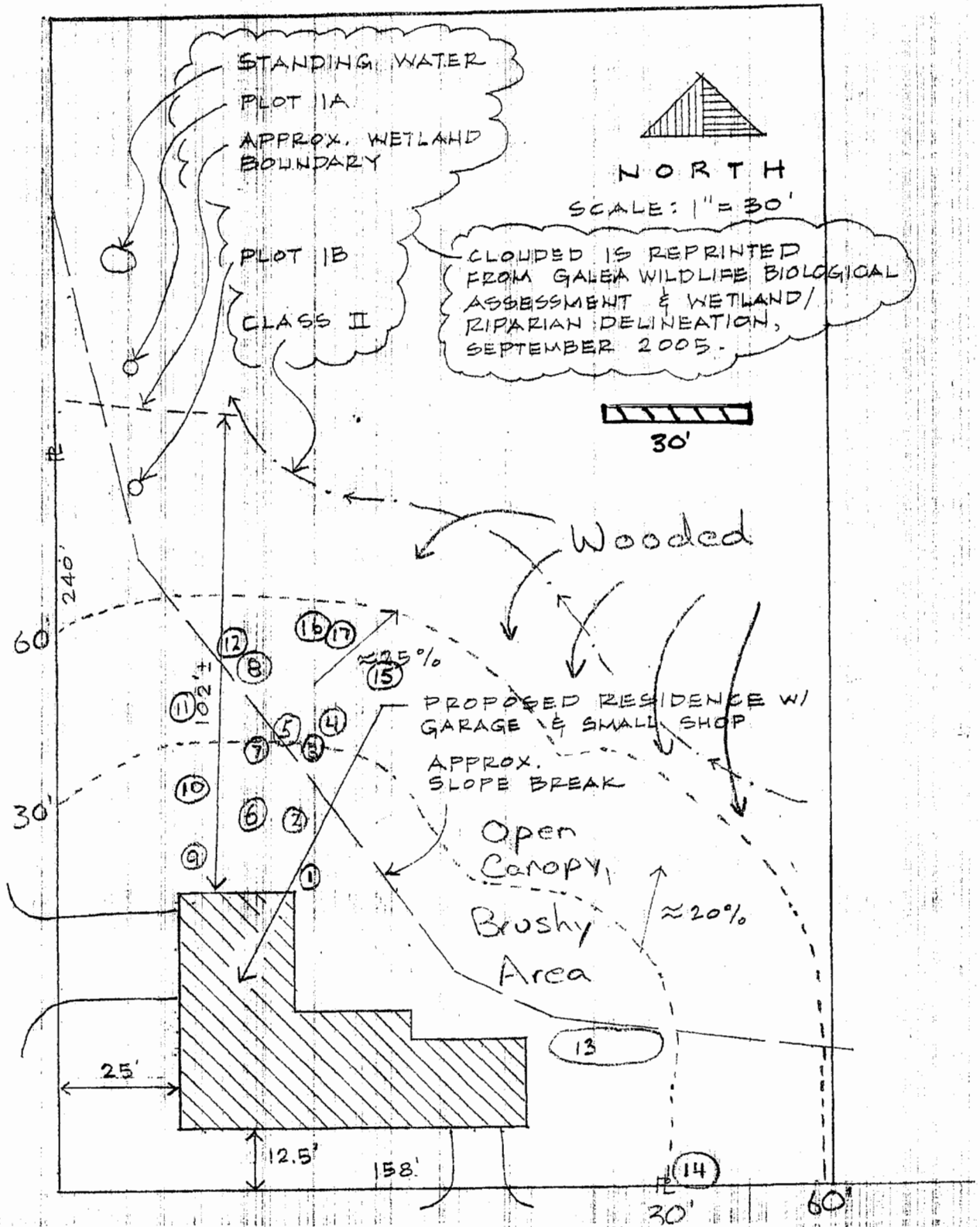


Figure 1. Location of vegetation to be impacted by fire-safe implementation, Trask property, Del Norte County. Circled numbers correspond to vegetation listed in Table 1. + 2

SERVICE IS FROM
CRESCENT CITY WATER
SYSTEM.
SEWER SERVICE FROM
D.N. CO.

PROPOSED ALTERNATIVE
PLOT PLAN
APN 120-035-02

3412

From the house perimeter out to 30 feet (Zone A):

From 1-30 feet around the proposed house site vegetation was dominated in the overstory by early seral Sitka spruce trees (Table 1). Canopy closure was high, 80-90 percent under the spruce, which was the primary cause of a relatively open understory. Dead, small cascara, both standing and having fallen over, were scattered in the area. Many of these were being used by English ivy as ladders to reach higher levels into the living spruce. The ground level contained limited amounts of scattered dead and down cascara limbs and small spruce branches, with a heavy layer of spruce needles throughout. Understory brush under the conifers was limited to small swordfern, salal and huckleberry, plus some infestation of ivy, which was more dense in open areas with less canopy closure.

As the primary goal is to reduce fuels around the house and prevent "laddering" of ground fire to tree canopy, all dead cascara and spruce trees (none were large) within 30 feet of the house site would be removed, chipped on-site and the chips scattered over the general area toward the northeast. Limbs within ten feet of the ground, or within ten feet of any remaining brush on the ground, would be removed from trees. Fortunately, most lower limbs on adjacent trees were smaller in size and dead, therefore limbing of trees up to 10 to 20 feet above ground will be relatively easy to accomplish. All removed limbs would also be chipped and the chips scattered over the general area toward the northeast. English ivy growing on trees would have stems and leaders cut to kill growth in the trees. Any dead and down material within 30 feet of the house, such as dead cascara and spruce limbs (of which there are few) would be collected and chipped.

Northeast of the house site a lack of conifer leaves an open overstory. This patch is composed of Himalaya blackberry, ivy, small cascara, swordfern and salmonberry. Within 30 feet of the house site this vegetation would be mowed down to 12 inches, the most likely methods would be using a hand-held, heavy-duty brush trimmer/ weed-eater. Any limbs or hard-stem material would be raked up and fed through the chipper and dispersed. Over time this would eliminate the cascara and salmonberry and hopefully control the ivy and blackberry (both invasive species) to the point where the swordfern can dominate. The swordfern, if in small groupings, can be left natural and does not need to be reduced to 12 inches height (per CALFire). English ivy would be collected and bagged for proper disposal at the transfer station.

Overall, vegetation management within 30 feet of the house site will involve the removal of very small dbh spruce and cascara, most of which were dead, and the removal of dead, lower branches from larger spruce, to the point where there is a 10 foot separation between ground vegetation and the tree branches which lead up to the upper canopy. There were no snags or large logs on the ground within 30 feet of the house site.

From 30 feet from the house perimeter to 60 feet (Zone B):

The primary goal of fire-safe management in this zone is also to prevent fuel-laddering into tree canopy. Fortunately, around the house site from 30-60 feet most of the spruce trees were larger, contained few lower limbs and were not well encroached by brush. Therefore, the same management of vegetation would be used in Zone B as in Zone A. Trees would be limbed as described in Table 1, with lower, dead branches removed and chipped on site. Very few live branches need to be removed. Tree #2, #6, #9 and perhaps one tree in group #13 may have upper limbs which reach as far as the roof line of the proposed house; such branches would require removal as a fire-safety issue, however these would be very few in number and have

Table 1. Description of Vegetation & Impacts around Proposed House Site for CAIFire Fire-Safe.		
Corresponding Map #	Distance from House Perimeter	Vegetation Description & Impacts for Fire-Safety.
1	5 feet	Group of small cascara, 3-10" dbh, dying due to conifer overstory and ivy infestation - all to be removed.
2	16 feet	24" dbh spruce - dead limbs to 20 feet - all removed.
3	30 feet	Leaning, dead cascara covered with ivy, + 3 dead, 1 live small cascara standing, ivy covered. All to be removed.
4	0-30 feet	Ground has few, small dead & down branches, lightly littered, few swordfern, ivy, covered with spruce needles.
5	30 feet	Small cascara pile, 3-10" dbh, dying, - ivy infestation - all removed. Spruce, 10", no live limbs to 15', small, dead limbs removed to 15'.
6	15 feet	Clump of 3 spruce, ave: 14" dbh, dead limbs to 30', dead limbs removed to at least 10 feet.
7	30 feet	4 small, dead spruce, plus 1- 24" & 1-18". No live limbs to 30', all dead limbs removed to at least 10 feet.
8	49 feet	36" dbh spruce, 20' to first live limb, ivy covers ground, remove dead limbs to at least 10 feet.
9	7 feet	24" dbh spruce, 30' to live limb, remove dead limbs to at least 20'.
10	22 feet	Multi-branched alder, minor trimming of small & dead limbs, otherwise leave. 3 stick-size, dead spruce, remove.
11	36 feet	30" spruce, dead limbs to 10 feet, limb to 10". Alder, minor limbing, leave tree.
12	47 feet	Multi-limbed alder, minor trimming of lower limbs. Numerous small, dead cascara on ground, remove.
13	3 - 30'	7 spruce, ave: 18" dbh, no live branches to 5 feet, limb all trees to at least 10'. Few small, dead spruce on ground, remove.
14	36 feet	3 spruce, 16-24" dbh, limb up to 10'.
15	51 feet	30" dbh spruce, limb 1 lower limb. Dying, ivy-covered cascara at base - clear out ivy and cascara around base.
16	54 feet	28" dbh spruce, dead limbs 10-20', remove.
17	51 feet	Spruce, 8", no limbing. Remove leaning, dead cascara pile covered with ivy at base of tree.

Table 2. Description of Vegetation to be removed in or immediately adjacent to House Perimeter, Trask Application.

Map #	Vegetation Description
18	14" dbh spruce.
19	22" dbh spruce
20	Small rhamnus
21	Area of small spruce, rhamnus, few small alder, understory of Himalayan blackberry, Oregon grape and huckleberry.
22	Group of small rhamnus
23	Small red huckleberry.
24	14" dbh spruce.
25	Small diameter alder
26	6" dbh spruce
27	Small Oregon grape
28	6" spruce
29	Small diameter alder
30	Small Oregon grape
31	14" dbh spruce
32	10" dbh spruce
33	10" dbh shore pine

7/9/12

no impacts on overall canopy closure. Any piles of dead cascara would be removed and chipped. English ivy off the cascara would be collected and bagged for proper disposal at the transfer station. English ivy growing on trees would have stems and leaders cut to kill growth in the trees.

East of the house site, in Zone B beyond spruce patch #14, the area is very open with no conifers. The ground vegetation consists of small cascara, swordfern and English ivy. At the 60 foot line there is a patch of elderberry and cascara. As this entire area is lush and green with no overstory, there is no fire danger and no potential for fuel-laddering. Therefore, no vegetation management is necessary in this area, east of spruce patch #14.

Immediately north of patch #13 there are also no overstory trees in the B Zone. Ground vegetation consists of Himalaya blackberry, English ivy and swordfern, with limited elderberry and salmonberry. The closest tree north of patch #13 is 69 feet away. In this portion of Zone B, as there is no fire danger and no potential for fuel-laddering, no vegetation management should be necessary.

North of tree #16, which is 54 feet from the perimeter, there is a dense vegetative patch of English ivy choking out and covering cascara and swordfern, with no overstory conifer. This area needs no vegetative management for fire, however removal of the English ivy may be preferred.

Overall, vegetation management between 30 and 60 feet (Zone B) will entail the removal of dead branches from spruce and very few live branches removed. There were no snags or large logs on the ground within 60 feet of the house site. The relatively small, early seral sized spruce found within 30 feet of the house site have little wildlife value, as branch size was relatively small for nest construction and dense canopy closure prevented herbaceous plant production under the canopy. Regardless, most branches and upper canopy of these trees would be maintained.

Beyond 60 feet of house perimeter:

Beyond the open, brushy area northeast of the house site, just beyond 60 feet, a line of larger spruce is located along the lower edge of slope. These trees provide a good sound and visual barrier between the house site and the Class II watercourse located just beyond this line of spruce trees.

The line of spruce trees continues to the northwest, where the spruce trees, being of lower elevation than the house site and the thickest part of their canopy is level with the house site, provide a good barrier between the house site and Marhoffer Marsh, well north of the line of spruce trees.

Due north of the house site, approximately 120 feet away, is a dense stand of spruce, cascara, elderberry, and salal, most of which is draped and covered by English ivy. This makes an impenetrable vegetative curtain which cannot be seen through, and makes a visual and sound barrier between the house site and Marhoffer Marsh. This material would not burn well, and does not have conifer canopy above it, therefore it is not an issue for fire safety and can be left as is.

The area between 30 and 60 feet of the house site has low wildlife value, as it is comprised primarily of thickets of spruce, small, dying clumps of cascara and an infestation of English ivy.

Assessment of canopy cover pre and post implementation:

Where spruce trees were located, canopy cover was dense, exceeding 80 percent. As the spruce trees grew in clumped densities, shading from competition caused lower branches to die off. At their current height, therefore, relatively branchless trunks typically extend to heights well above ground vegetation. To make the site fire-safe, generally only dead, remaining branches need to be removed, which do not provide canopy closure. Very few live branches will require removal. Post-implementation, therefore, canopy closure within 30 feet and within 60 feet will not be changed by fire-safe implementation. Vegetation composition will remain relatively the same. There will be fewer cascara, however this species was already being shaded out by the conifer. Cascara to be removed were relatively small diameter and had little or no wildlife value. Implementation of fire-safe management will have no impacts on aquatic habitat values, as the aquatic systems near the house site are well distant and changes to vegetation due to implementation will be minimal. There will be no change in diversity or canopy closure over the Class II watercourse, and there will be no changes in wildlife value.

In areas with no spruce the canopy was relatively open, except for limited amounts of elderberry and salmonberry, which provide very little canopy closure, and only at a lower level. Trimming of these plants to reduced heights will have no overall impacts on canopy closure.

Assessment of impacts from implementation of fire-safe practices:

Implementation of fire-safe practices for this property will involve some use of chainsaws and brush trimmer/ weed-eaters. A small chipper capable of handling 3 inch stems would be preferable to chip most of the branches and smaller brush to be removed. No heavy equipment would be necessary. CALFire recommends chipping the stemmy plant material and branches and distributing this over the site. All of the work needed could be accomplished within a few days by one person, properly equipped.

This work would take place in an area well screened from the Marhoffer Marsh by a line of spruce, cascara and alder, with a dense understory of English-ivy covered brush. Impacts to avian species may be dependant on the time of year the work was conducted. To date, there have been no indications of nesting birds, such as osprey, herons or egrets, utilizing nests near the property. If they are nesting within Marhoffer Marsh they are likely an adequate distance from the project site so they would not be significantly disturbed. Preferably, fire-safe implementation should occur in late summer or early fall, after birds are nesting. Disturbance activities such as use of gas-powered equipment should be limited from early morning and late evening.

The project site is on the edge of a residential area where sounds from recent home construction, wood cutting, lawn mowing and other noise sources are common, therefore wildlife in the immediate area is accustomed to noise. Directly adjacent to this property to the west is a home built close to Marhoffer Marsh where recent construction noise was already occurring, based on hammering heard during a recent April visit to the site.

The Class II watercourse ESHA located approximately 60 feet northeast of the proposed house site is a very small seep, with no bed and bank. In proximity to the house site it is located within the conifer zone, is screened by conifers and dense brush, and has little or no wildlife value relative to the surrounding forest,

therefore fire-safe implementation should have no impacts on this ESHA. The other primary ESHA in proximity to the house site is approximately 120 feet to the north where wetland habitats begin in a transitional zone between spruce forest and inundated marsh. This too is well screened, is at a much lower elevation and is not a preferred habitat for nesting wildlife due to its proximity to existing homes, considering the balance of Marhoffer Marsh which is available. Therefore, no significant impacts to wildlife resources would occur due to fire-safe implementation.

Assessment of effects of fire-safe management to vegetative cover and resulting impacts to erosion and visual and sound screening:

Fire-safe vegetation management for this property will be relatively low impact on vegetative cover. As most of the area is dominated by early seral spruce, these will remain and require a minimal of branches removed, which will have no affect on vegetative cover. Canopy closure will remain the same. Therefore, there would be no impacts on erosion by limbing branches from spruce, especially since canopy closure will remain the same.

Open areas with no spruce are dominated by invasives such as Himalaya blackberry and English ivy, where native species such as swordfern and salal are being covered and smothered. These open areas do not provide near as much visual and sound screening as do the groups of spruce trees. Reduction of height of vegetation within 30 feet of the proposed house site will likely reduce the amount of invasives. It is only within 30 feet of the house site that height reduction of vegetation need occur. Due to height reduction, the elderberry, cascara and salmonberry will likely not remain. However, groups of swordfern can be kept intact, and with the reduction of invasives the swordfern and the salal will thrive.

Low-lying ground species such as swordfern, salal and native huckleberry need to be reduced to approximately 12 inches in height but do not need to be removed. Once the invasive ivy is removed, these plants will actually flourish. There will be no increased potential for erosion as most of the open areas will remain vegetated. Additionally, the owners plan to disburse chips from chipping stemmy vegetation into these areas, further protecting the underlying soils.

Overall, fire-safe management practices will have minimal impacts to vegetative cover. Much of the area within 30 feet has fallen-over cascara covered by invasive ivy; these would be removed. Thick, high Himalaya blackberry would be greatly reduced. Within 30 feet of the house site, vegetation would go from a tangle of invasives and ivy-covered, lateral dead cascara, to a park-like setting of native swordfern and salal, with open space in between the plants to reduce fire potentials.

As the live spruce trees within 30 feet would remain, as would spruce, cascara, alder, elderberry and ivy-covered vegetation from 30-60 feet, there would be almost no overall reduction in visual and sound screening between the house site and Marhoffer Marsh complex.

Effects of English ivy removal and potential for replacement plants:

English ivy is an invasive species which covers and smothers herbaceous plants at ground level, and climbs as a vine into trees, where it expands and covers foliage to the point where it can also kill tall trees. Alder and cascara seem to be very susceptible to ivy infestation. Conifers appear able to survive even when ivy grows into them, because their upper, lateral branches shade out the ivy, which then cannot flourish in the upper parts of the conifer.

Most of the English ivy to be removed around the house site would be from the ground layer, where it currently smothers native vegetation such as salal and swordfern. It covers dead, falling cascara and uses it to reach into trees or cover taller brush. Removal is tedious and difficult as it must be done by hand. Once the smothering layer is removed, however, short herbaceous plants such as ferns will likely recover and flourish. Salal and huckleberry will return and flourish, however these native species will need to be kept around 12 inches in height as part of the fire-safe requirement. CALFire has stated that short herbaceous plants like swordfern can be allowed to grow higher if in the open and away from other vegetation, to prevent fire-laddering.

The original biological assessment suggested the planting of native trees and shrubs as mitigation. This could be accomplished in areas where native vegetation does not respond well after ivy removal, at the discretion of the landowner. So long as a 10 foot separation between low-lying ground plants and the first lateral branches of trees is maintained, this could be accomplished. However, this has not yet been planned, and is best left up to the landowners after they see the impacts of fire-safe implementation on vegetation and how the vegetation responds. It may not be practical to make specific recommendations and mapping of individual replacement plants at this time.

Vegetation within the wetland and creek ESHAs:

The Class II watercourse ESHA is an intermittent, small rivulet, with no bed or bank, which drains water from south to north. The ESHA runs through conifer forest located along the southern edge of the Marhoffer Creek swamp. A drop-off of approximately 18 feet on the property occurs between the proposed home site and the ESHA. It is surrounded by native vegetation such as salal and swordfern, with an overstory of spruce. Due to the spruce, English ivy infestation is not as severe, however it is still present around the Class II.

The Class II has little value for wildlife, as there is little or no hiding cover for vertebrates, no pooling, no depth, no banks and only a minimal amount of water, seasonally. There may be aquatic invertebrates present, however this is doubtful, considering the effects of a blanket of spruce needles, the limited amount of water and the small size of this watercourse. Common amphibians such as *Ensatina* may be present, however none have been detected to date, and this is not preferred habitat.

No functional relationships between the proposed building site and species from the ESHA likely exist. There is no preferred habitat on the project area including the area to be impacted by fire-safe vegetation management which would cause watercourse-dependant species (such as amphibians) to "spend a significant

portion of their life cycle on adjacent lands". A topographic and vegetative barrier exists between the house site and the wetland area.

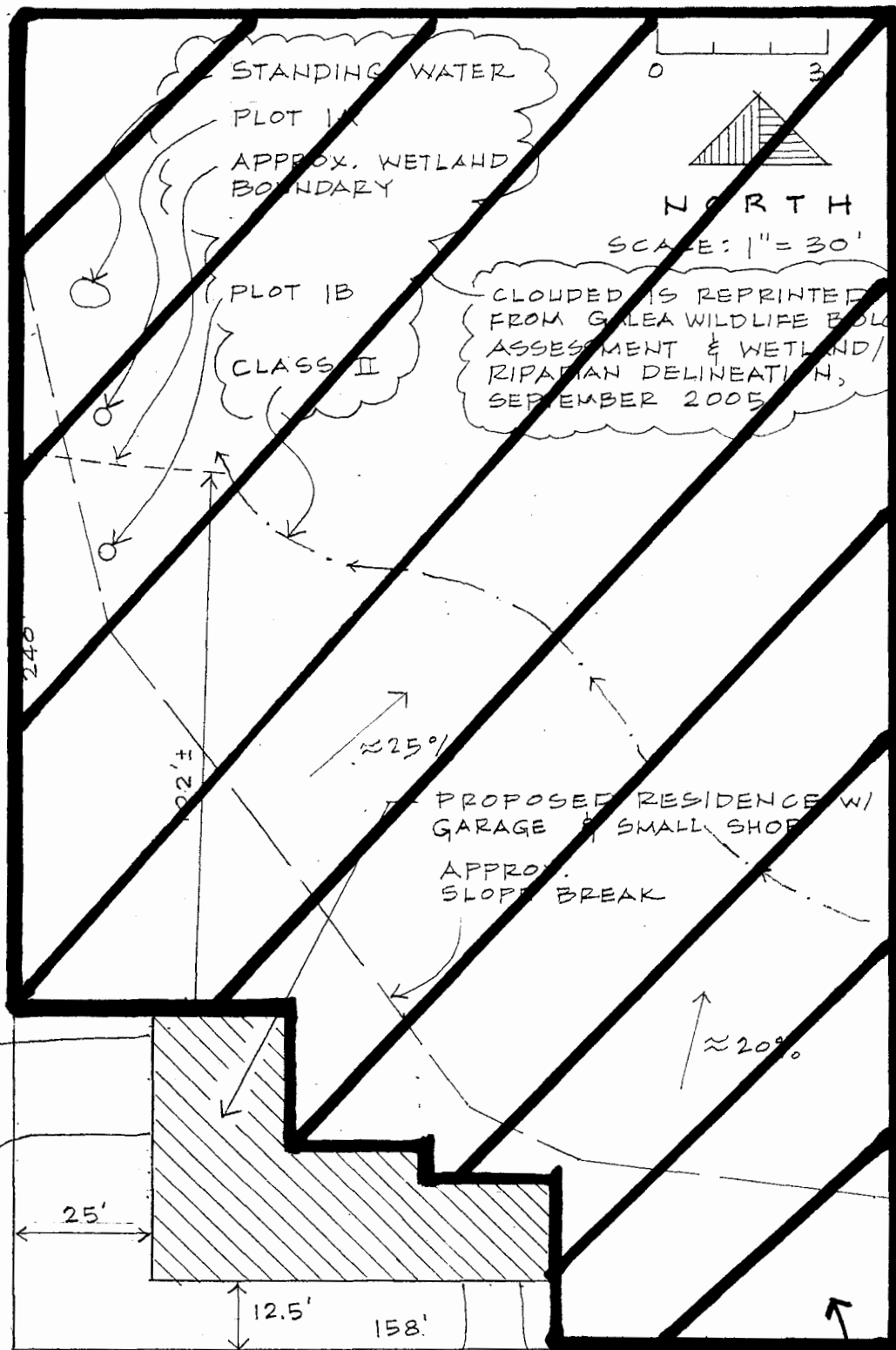
Approximately 120 feet north of the house site is the beginning of the Marhoffer Marsh complex. Here, the ground levels and periodic inundation in low spots allows hydric plants to persist. A blanket of spruce needles, plus very limited water, likely prevents these shallow wetland areas from being preferred habitat for wildlife or aquatic invertebrates. Preferable habitat is located deeper within the marsh.

Spruce, cascara, salal and huckleberry occupy raised areas around the low spots. As this ESHA is so far removed from the house site and the fire-safe implementation area, all vegetation was not mapped, as a dense barrier and tangle exists between the marsh and the house site. None of this area will be affected by fire-safe implementation. This is the outer north edge of the Marhoffer Marsh complex, with marginal wildlife value, therefore wildlife likely do not utilize this outer fringe of the marsh as much as they might the interior.

Findings from Field Review and Discussion of Fire-Safe Methods: Alternative to Preferred Alternative.

Due to limited building space resulting from ESHA protection and buffers to adjacent properties, the potential for Alternatives are few. The Applicant has submitted one alternative in house design and location, which is very similar to the Preferred Alternative. The Preferred Alternative has a slightly smaller footprint overall and is farther removed from ESHA, however house dimensions and location are similar enough between the two alternatives that there would be no changes in fire-safe vegetation management. The map of vegetation provided in Figure 1 and the list of vegetation and discussion of vegetation management provided in Table 1 are applicable to both alternatives. Therefore, implications from the above discussion regarding fire-safe management practices and the potential effects on wildlife can be used for both alternatives.

BERRY ST.



Hatched area is portion of the property subject to Open Space Deed Restriction per Special Condition No. 2 of Coastal Development Permit No. A-1-DNC-07-036.

KELLER AVE

EXHIBIT NO. 10

APPEAL NO.

A-1-DNC-07-036

TRASK

OPEN SPACE AREA SUBJECT
TO DEED RESTRICTION

PROPOSED ALTERNATIVE

PLOT PLAN

APN 120-035-02

CALIFORNIA COASTAL COMMISSION

NORTH COAST DISTRICT OFFICE
110 E STREET, SUITE 200
EUREKA, CA 95501
VOICE (707) 445-7833 FAX (707) 445-7877



APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

Name: The Friends of Del Norte and James Snow
Mailing Address: P.O. Box 229
City: Gasquet CA Zip Code: 95543 Phone: 707-954-2473

RECEIVED

AUG 24 2007

CALIFORNIA
COASTAL COMMISSION

SECTION II. Decision Being Appealed

- Name of local/port government: Del Norte County
- Brief description of development being appealed:
Coastal Development Permit for New Residence
APP # B28832C TRASK
- Development's location (street address, assessor's parcel no., cross street, etc.):
700 Berry St. APN 120-035-02
Crescent City
- Description of decision being appealed (check one.):
☐ Approval; no special conditions
☒ Approval with special conditions:
☐ Denial

EXHIBIT NO. 11

APPEAL NO.

A-1-DNC-07-036

TRASK

APPEAL (1 of 19)

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:

APPEAL NO.

A-1-DNC-07-036

DATE FILED:

8/24/07

DISTRICT:

North Coast

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)

5. Decision being appealed was made by (check one):

- ☐ Planning Director/Zoning Administrator
☐ City Council/Board of Supervisors
☒ Planning Commission
☐ Other

6. Date of local government's decision:

Aug. 1, '07 hearing

7. Local government's file number (if any):

B28832 C

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:

Adam & Tamara Trask

(913) 651-2975

915 Murphy Ave

Crescent CA

City 95531

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

(1)

JAMES SNOW

601 SPRUCE ST.

Crescent City, CA 95531

(2)

Eileen Cooper and Donna Thompson

1093 Hwy 101 N

Crescent City, CA 95531

(3)

(4)

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)

SECTION IV. Reasons Supporting This Appeal

PLEASE NOTE:

- Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section.
- State briefly **your reasons for this appeal**. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)
- This need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

Attached ~

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 4)

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.

Signature on File

Signature on File

Boardmember FDN

Signature of Appellant(s) or Authorized Agent

8/23/07 Date:

August 23, 07

Note: If signed by agent, appellant(s) must also sign below.

Section VI. Agent Authorization

I/We hereby
authorize

to act as my/our representative and to bind me/us in all matters concerning this appeal.

Signature of Appellant(s)

Date:

Friends of Del Norte, Committed to our environment since 1973

*A nonprofit, membership based conservation group P.O. Box 229, Gasquet, CA 95543
Advocating sound environmental policies for our region.friendsdelnorte@yahoo.com*



August 23, 2007

ATT: California Coastal Commission, North Coast, Jim Baskin, FAX 707-445-7877

REGARDING: Trask, Coastal Development Permit, B28832C, APN 120-035-02, 700 Berry St.

This 0.87 acre parcel consists mostly of undevelopable wetland/stream resource land, and is part of an extensive and biologically significant undeveloped wetland and stream complex. This parcel is part of a paper subdivision that was drawn without regard to Coastal Policy. These lots predate the Coastal Act. Most of these lots are entirely of wetland and stream character and cannot be developed. There simply is not enough developable area to avoid significant impacts to the Marhoffer wetland and stream corridor. That is why this sliver of land has remained undeveloped. Development proposals for this property and surroundings have been rejected before on the basis of conflict with Coastal resource policies that restrict development. The property owner is fully aware of the limitations of this property and area in general.

There is an extensive wetland and a steep stream corridor within and adjacent to the parcel. This stream and associated wetland is a part of the Marhoffer wetland complex that has specific LCP policy, as well as 100 foot buffer no disturbance LCP policy that extends to all wetland/riparian ESHA (Environmentally Sensitive Habitat Area) within the Coastal Zone of Del Norte. This is a special study area within the LCP, with important biological value. Marhoffer wetlands/branch streams have the following specific LCP policy requirements:

6- Riparian vegetation along the course of Marhoffer Creek and its branch streams shall be maintained for their qualities of wildlife habitat and stream buffer zones.

3- New development adjacent to Marhoffer Creek wetlands shall not result in adverse levels of additional sediment, runoff, noise, wastewater or other disturbances.

2-A buffer strip shall be maintained in natural conditions around the Marhoffer creek wetlands where adjacent land uses are found incompatible with the productivity or maintenance of the wetlands.

9. Vegetation removal in the Marhoffer Creek wetland shall be limited to that necessary to maintain the free flow of the drainage courses and only when excessive impediment creates flooding hazards on adjacent lands.

This project is inconsistent with these Marhoffer Creek LCP policies.

Dept. of Fish and Game (DFG) guidelines indicate that a minimum no disturbance buffer should be measured at 50 feet from the top of the bank or slope break.

In this case, after walking along Keller Ave, the plot map does not appear accurate. The slope break appears much closer to the house and shed than indicated, approximately 10 feet from the roadway. The house and shed appear to extend slightly over sloped terrain. As shown on the plot map, there is insufficient room for the reduced minimum stream buffer recommended by DFG.

The biologist states that the closest area to the stream is 66 feet. However, most if not all of this area is below the slope break and within the sensitive steep stream corridor. There are large trees and shrubs along and below the slope break that are integral in holding the bank together and preventing erosion, sediment and runoff. The

placement of the structures should in no way necessitate the removal of native vegetation within the stream buffer and below the slope break, as stated within Marhoffer branch stream policies.

We are concerned that major vegetation removal below the slope break will be necessary, as indicated by the fire prevention requirements and project conditions. The requirements of the Dept. of Forestry and Fire Protection necessitate the clearing of 30 feet of vegetation around the structures. This removal will therefore occur within the buffer and below the stream bank itself. And between 30 feet to 100 feet surrounding the home and shed, the removal of shrubs and limbing of trees will occur. This clearing is likely to extend to the streambed itself. These fire protection conditions are in direct conflict with the LCP requirements, and will significantly degrade the stream corridor. Although the clearing of ivy would be beneficial, fire safety requirements would also necessitate the clearing and permanent suppression of mostly native vegetation.

We find that development is inappropriate for this tiny corner that borders a rich wetland complex. The biological assessment is incorrect in stating that no functional relationship exists between the building site and the ESHA. The project encroaches into the slope break and stream corridor. This wooded area has rich and moist soils, even in the middle of summer.

The biological assessment is incorrect in stating that, "as homes are already built in the immediate area, including the adjacent lot, there would be no significant increase in disturbance." The adjacent home is built at an adequate distance from the stream corridor. The stream corridor bends around the adjacent home, but it transverses the proposed building area. The ravine and stream corridor have not been encroached upon by the adjacent homes in general. The line of development along this segment of Keller Av has been to the south, and has not encroached upon the north wetland/stream ravine. A view of the aerial photo reveals the extensive and undeveloped nature of the marshland which extends along the north side Keller Av. The area north of this segment of Keller Av should remain undeveloped.

The biological assessment is incorrect in stating that the building site is on a flat. The buildings will extend slightly over sloped terrain. And the requirements for clearing and removal of major vegetation around 30 feet surrounding the home and shed, as well as limbing and clearing within the next 30-100 feet will in fact necessitate major vegetation removal within the already reduced stream corridor. This will negate most of the biological and water quality buffer value of the reduced stream and wetland buffer.

The biological assessment relies on an undisturbed reduced buffer strip of 60 feet (6) as being adequate. However this area will not be maintained as an undisturbed area but will actually be mostly cleared because of fire safe conditions. And furthermore, the biological assessment fails to point out that most of the buffer is below the slope break. The Dept. of Fish and Game requires a minimum 50 undisturbed reduced buffer as measured from the top of the bank or slope break. The Dept. of Fish and Game was not informed as to where the buffer was measured from, and any assessment is based on an inaccurate project description.

This subdivision predates the Coastal Act, and is impossible to execute without significant effects to the stream corridor and the associated biological values of this rich Marhoffer Creek marsh and stream area. We are sure to see inappropriate development continue to be proposed, as property values are high. Please deny the project.

Short of that, we recommend eliminating the shed altogether, as it sits too close to the stream. The shed is not essential as the house itself contains a garage. We recommend a significant reduction in the size of the home. This is a very large structure, and no attempt to be modest has been made. The structure contains 1,696 square feet downstairs, and 1,728 square feet upstairs. Unfortunately it is not possible to abandon Berry St. or Keller, as they provide access to other perhaps useable areas.

We list some relevant LCP policies which apply to this project. This project is inconsistent with the following:

LCP Policy, Marine and Water Resources,

LCP VII.D: Wetlands, 4: Policies and Recommendations

f.) Development in areas adjacent to environmentally sensitive habitat areas shall be sited and designed to prevent impacts which could significantly degrade such areas, and shall be compatible with the continuance of such habitat areas. The primary tool to reduce the above impacts around wetlands between the development and the edge of the wetland shall be a buffer of 100 feet in width. A buffer of less than 100 feet may be utilized where it can be determined that there is no adverse impact on the wetland. A determination to be done in cooperation with the California Dept. of Fish and Game and the County's determination shall be based on specific findings as to the adequacy of the proposed buffer to protect the identified resource.

LCP Policy, Marine and Water Resources, VII. D. Wetlands:

4. g. Due to the scale of the constraints maps, questions may arise as to the specific boundary limits of an identified environmentally sensitive habitat area. Where there is a dispute over boundary or location of an environmentally sensitive habitats area, the following may be requested of the applicant:

- i.) A base map delineating topographic lines, adjacent roads, location of dikes, levees, flood control channels and tide gates.
- ii.) Vegetation map
- iii.) Soils map

Review of this information shall be in cooperation with the Dept. of Fish and Game and the County's determination shall be based upon specific findings as to whether an area is or is not an environmentally sensitive habitat area based on land use plan criteria, definition, and criteria included in commission guidelines for wetland and other wet environmentally sensitive habitat areas as adopted February 4, 1981. The Dept. of Fish and Game shall have up to fifteen days upon receipt of County notice to provide review and cooperation.

LCP Policy, Marine and Water Resources, VI. C:

1. The County seeks to maintain and where feasible enhance the existing quality of all marine and water resources.

3. All surface and subsurface waters shall be maintained at the highest level of quality to insure the safety of the public health and the biological productivity of coastal waters.

5. Water conservation measures (e. g., flow restrictors, industrial recycling of usable waste waters) should be considered by present users and required in new development to lessen cumulative impacts on existing water systems and supplies.

6. Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on such resources shall be allowed within such areas. Development in areas adjacent to environmentally sensitive habitat areas shall be sited and designed to prevent impacts which would significantly degrade such areas, and shall be compatible with the continuance of such habitat areas.

LCP Marine and Water Resources VII. E. Riparian Vegetation 4.a

Riparian vegetation shall be maintained along streams, creeks, and sloughs and other water courses within the Coastal Zone for their qualities as wildlife habitat, stream buffer zones, and bank stabilization.

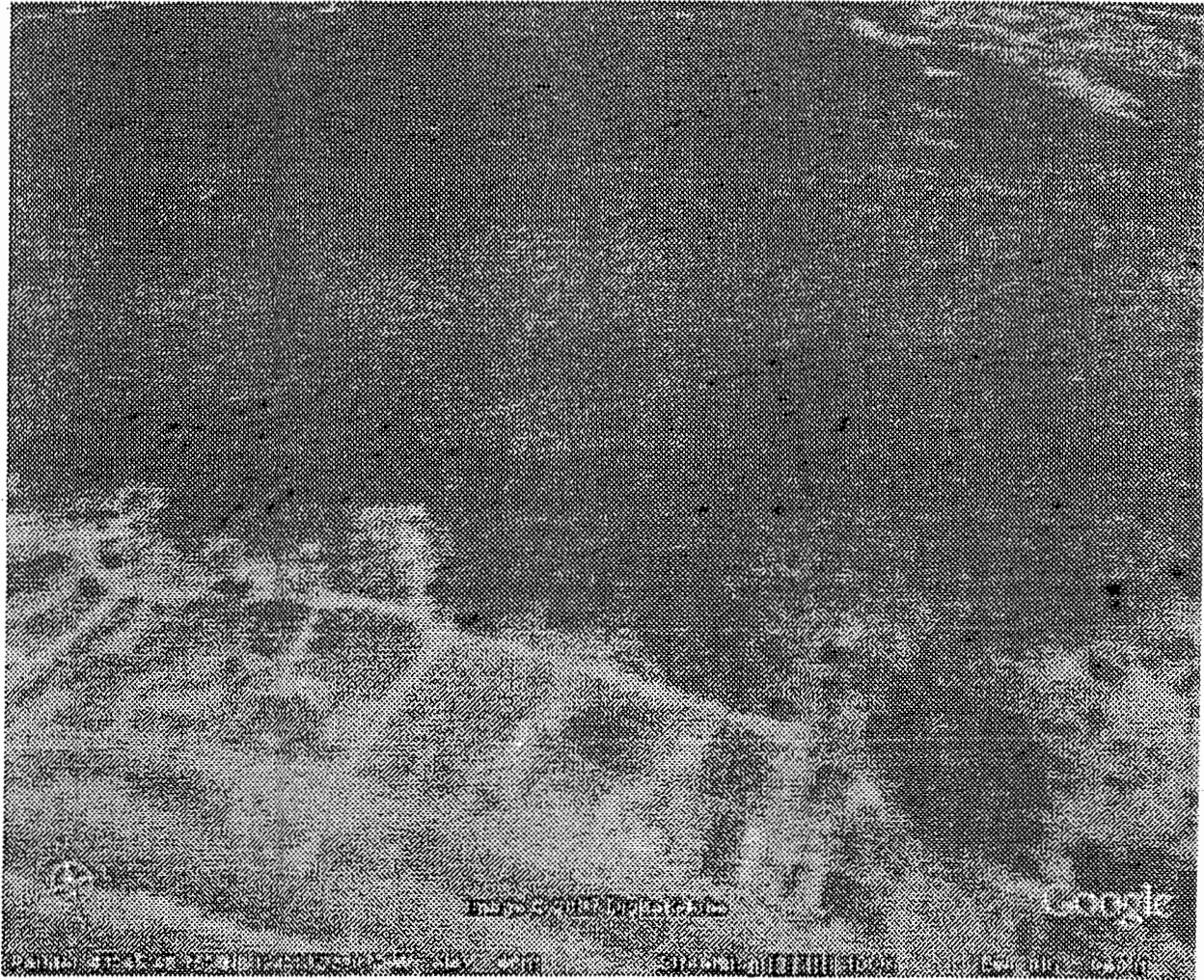
Thank you,

Eileen Cooper, Boardmember

Signature on File

Joe Gillespie, President.

Attached: aerial photo and letters of appeal from James Snow



e-mail contains excellent photo copy
to Jim Baskin

HUG, 13, '07

To: COASTAL COMMISSION - APPEALS DEPT.

I WISH TO APPEAL THE BUILDING PERMIT FOR
700 BERRY ST. (APN 120-035-02) CRESCENT CITY, CA.
APPROVED BY THE DEL NORTE CO. PLANNING COM. AT
THEIR AUG 1, 07 MEETING.

I DON'T KNOW IF IN THE APPEALS PROCESS A SITE
VISIT CAN BE DONE BUT I BELIEVE IN THIS CASE
OF "WHO-SAYS-WHAT" A SITE VISIT BY A THIRD PARTY WOULD
QUICKLY CUT TO THE FACTS,

THIS SAME PARCEL WITH THE SAME PROPOSED HOUSE
WAS PROPOSED IN 2004 BUT THE PERMIT ^{APPLICATION} WAS QUICKLY
WITHDRAWN BECAUSE OF ALL THE ENVIRONMENTAL CONCERNS
AND THE "IFFINISH" OF THE SLOPE OF THE PARCEL RELATIVE
TO THE SLOPE-EDGE AND WET-LAND BUFFER REQUIRED,

NOW AGAIN THE BASICALLY SAME PROPOSAL SEEMS TO BE
ON THE GREASED-SLIDE, WHAT HAS CHANGED? I THINK
THE "HUMAN-ELEMENT" IS BASICALLY THE ANSWER. TO BE
FRANK, NOW ADAM + TAMARA TRASK ARE REQUESTING IT.
TAMARA TRASK IS MIKE YOUNG'S DAUGHTER - THE SAME
MR. YOUNG WHO IN THE LATE 70S - EARLY 80S WAS
CRESCENT CITY'S, CITY-MANAGER / CITY ENGINEER AND WHO
RETIRED A FEW YEARS AGO AS OUR COUNTY ENGINEER.

(2)

While I too have respect for Mr. Youngs service to our community, I still have a problem with the very people he worked so closely with now just pushing at best a questionable project ~~through~~.

As examples of his ex-colleagues: Art Reeves (his ex-coworker) has questioned my patriotism for opposing this project. It seems Mr. Reeves knows the applicants on a personal level in that "Mr. Trash is a Lt. Colonel and his son is in the military and fighting for us in Iraq, ⁱⁿ and how can I oppose them?" Also Mr. Reeves submitted "Exhibit N" the note of our Planning Comm. Meeting (Aug. 1) - he stated "he had spent 3 hours that day cutting his way through stickers to do it." I wonder if he was on the County pay-roll when doing this? Wouldn't you think it would be the Trash's responsibility? Although my appeal is more based on concerns of the actual property and proximity to Marhofer Wetlands I believe Mr. Reeves close relationship is indicative of at minimum clouded judgment.

Now more to the physical-concerns of my appeal: #1 - I disagree with the biological study in that even now with no rain for

(3)

MONTHS THERE IS "STANDING-WATER" AT THE ~~END~~ BOTTOM OF THE SLOPE. ALSO EVEN THIS LEVEL HAS BEEN AFFECTED BY OUR COUNTY'S PAST ACTIONS AROUND MARHOFFER WETLANDS REMOVING BEAVER DAMS — ANOTHER EXAMPLE OF THE MINIMUM "NO LAW NORTH OF THE Klamath." / JUST-US ~~MENTALITY~~ VERSUS JUSTICE.

#2 - THE SLOPE OF THE AREA WHERE PROPOSED HOUSE WILL SIT WILL HAVE TO BE CLEARED OF THE UPRY TREE'S HOLDING IT TOGETHER, FURTHER DE-GRADING THE SLOPE + DRAINAGE INTO THE WETLAND.

#3 - THE COUNTY SAYS THE PARCEL IS "ZONED" FOR 4 RESIDENCES, WELL "NO-WAY" - IT'S ALL MAINLY AT THE BOTTOM OF THE SLOPE IN SWAMP, EVEN THE PROPOSED FOOT-PRINT OF THE HOUSE IS HANGING OUT OVER THE ACTUAL SLOPE-EDGE, NOT TO MENTION THE SEPARATE GARAGE WHICH EVEN WITH ONLY A 12'6" SET-BACK FROM THE ROAD STILL REALLY STICKS OUT PAST THE SLOPE-EDGE.

BOTTOM LINE: IF THE ~~PROPOSED~~ PROPOSED HOUSE CAN BE BUILT ON THIS LOT THEN WHAT'S NEXT - HOUSES BUILT IN WETLANDS ON STILTS?

(4)

AGAIN, I REQUEST A SITE-VISIT IF POSSIBLE AS I BELIEVE THE REPORTS SUBMITTED FOR BIOLOGICAL AND TERRAIN ARE QUESTIONABLE.

LASTLY, ALTHOUGH NOT STRICTLY PART OF MY APPEAL, MR. REEVE ALSO PUT A CONDITION OF BOTH DERRY ST. AND KEWER STREET'S WOULD ONLY BE REQUIRED TO BE 20' WIDE FROM THEIR CENTER-LINE AND GRAVEL ROADS, THESE ARE COUNTY ROADS NOT DRIVEWAYS AND I BELIEVE FURTHER PROOF OF A BIAS ON HIS PART TO HELP THE TRASK'S. ESPECIALLY SINCE KEWER STREET CAN'T BE DEVELOPED WITHOUT CONSIDERABLE ENGINEERING BECAUSE OF THE SLOPE OF THE LAND. JUST ANOTHER EXAMPLE OF FUDGING THE REQUIREMENTS FOR THIS PARCEL.

COME SEE FOR YOURSELF'S AND MAYBE BRING A FISH+GAME BIOLOGIST TO LOOK OVER MARSHFEEPER AND THE WETLANDS BY OUR AIRPORT. THIS COULD WELL BE A TEST-CASE FOR THE FUTURE.

Sincerely,

JAMES SNOW
601 SPRUCE ST.
CRESCENT CITY, CA.

95531

cell # 707-954-6923

Signature on File

AS AN ASIDE, NOBODY MENTIONED THAT THE TRASK WERE RELATED TO MIKE YOUNG. I DID THE RESEARCH.

ALSO AT OUR PLANNING COMMISSION JACK REESE OUR RETIRED COUNTY SUPERVISOR WAS THE CHAIRPERSON OF THE PLANNING COMMISSION, IN FACT HE WAS THE ONE WHO MADE THE MOTION TO APPROVE. I REALIZE WE HAVE A SMALL GENE-POOL BUT IT REALLY SEEMS INBRED!

SECONDLY EVEN THE REMOVAL OF THE BEAVER DAMS WAS A INSIDE-JOB IN THAT MR. WOODS AND STAFF WERE CLOSE FRIENDS APPARENTLY. IT WAS SUPPOSEDLY HIS PROPERTY THAT WAS THREATENED THAT WAS THE REASON FOR DAM REMOVAL, NO-WAY!

CEW # 954-6923
Signature on File

JULY, 24, 2007

To:

I WISH TO BRING TO YOUR ATTENTION
ACTIONS TAKEN BY COUNTY (DEL NORTE) EMPLOYEES
USING COUNTY EQUIPMENT ON PRIVATE-PROPERTY TO
REMOVE A BEAVER DAM THAT WAS CONSTRUCTED
TO BLOCK MARHOFFER CREEK/WETLANDS. ACTUALLY
THEY RELEGATED THE REMOVAL AT INTERVALS
UNTIL FINALLY THE BEAVER WAS LYING DEAD
BESIDE THE ROAD — END OF PROBLEM!

ALTHOUGH IT'S BEEN SEVERAL YEARS AGO THE
EFFECT HAS BEEN TO PERMANENTLY LOWER
THE WATER LEVEL IN THE WETLANDS BETWEEN
18" - 24" CONSEQUENTLY SHRINKING THE AREA
COVERED. NOW TO ADD INSULT TO INJURY,
OUR LOCAL DEVELOPERS ARE APPARENTLY TRYING
TO USE THE SHRUNKEN PERIMETER AS A DATUM-
LINE TO MEASURE THEIR BUFFER-ZONE FROM.

I QUESTION THEIR AUTHORITY FOR DOING SO. AND
WOULD LIKE A AUDIT OF ANY PERMITS ISSUED AND
THE REASONS THAT WOULD HAVE BEEN USED. I
BELIEVE A "CLOSE-LOOK" WOULD BE REVEALING
OF A CERTAIN "GOOD-OLD-BOYS" VERSUS JUSTICE!

I'LL KEEP THIS LETTER SHORT BUT I AM
AVAILABLE FOR A WALK-THROUGH OR SIT-DOWN FOR
MORE SIGIFICS.

Signature on File

THANK U
(over)

JAMES SNOW
601 SPRUCE ST.
CRESCENT CITY, CA. 95531

COPIES TO: BOARD OF SUPERVISORS, FISH & GAME, COASTAL COMMISSION

Order No.
Escrow No.
Loan No.

WHEN RECORDED MAIL TO:

Mr. & Mrs. Michael J. Young
711 J Street
Grescent City, CA. 95531

88 3340

DEL NORTE COUNTY TITLE CO.

AUG 8 11 35 AM '88

DEL NORTE COUNTY
RECORDERS OFFICE
BY *[Signature]*

MAIL TAX STATEMENTS TO:

Same as Above

DOCUMENTARY TRANSFER TAX \$ 11.00

XX. Computed on the consideration or value of property conveyed; OR
..... Computed on the consideration or value less liens or encumbrances
remaining at time of sale.

[Signature] DEL NORTE COUNTY TITLE CO.
Signature of Declarant or Agent determining tax Firm Name

GRANT DEED

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,

WE, JOE H. LEE, who acquired title as JOE H. LEE, a widower and ALICE LEE, husband and wife

hereby GRANT(S) to MICHAEL J. YOUNG and MARILYN M. YOUNG, husband and wife,
as joint tenants

the real property in the City of
County of Del Norte

State of California, described as

LQTS 104, 105, 106, 107, 108 and 109 Pebble Beach Tract Unit One according to the map
thereof filed in the office of the County Recorder of Del Norte County, California on
October 30, 1926 in Book 2 of Maps, page 43.

APN 120-035-02

Dated June 30, 1988

STATE OF CALIFORNIA
County of Del Norte

On July 27, 1988
before me, the undersigned, a Notary Public in and for said State, per-
sonally appeared Joe H. Lee and
Alice Lee

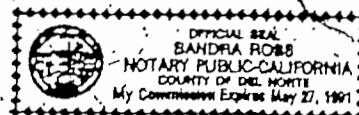
personally known to me (or proved to me on the basis of satisfactory
evidence) to be the person(s) whose name(s) is/are subscribed to the
within instrument and acknowledged to me that he/she/they executed
the same.

WITNESS my hand and official seal.

Signature Sandra Ross

Signature on File

Alice Lee



(This area for official notarial seal)

Order No.
Escrow No.
Loan No.

WHEN RECORDED MAIL TO:

AADAM & TAMARA TRASK
915 MURPHY AVE
CRESCENT CITY, CA
95531

98 5763

RECORDED
TAMARA TRASK
OFFICE
MAY 6 2 02 PM '98
DEL NORTE COUNTY
COUNTY CLERK
BY [Signature]
700

SPACE ABOVE THIS LINE FOR RECORDING USE

MAIL TAX STATEMENTS TO:

SAME AS ABOVE

DOCUMENTARY TRANSFER TAX \$ 110 CONSIDERATION
X Computed on the consideration or value of property conveyed; OR
Computed on the consideration or value less taxes or encumbrances
remaining at time of sale.

The undersigned Grantor declares

Signature of Deedman or Agent determining tax - Print Name

GRANT DEED

APN 120-035-02

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,

MARILYN M. YOUNG, a married woman, as her sole and separate property

hereby GRANT(S) to

AADAM TRASK and TAMARA TRASK, husband and wife, as joint tenants

the real property in the City of
County of Del Norte

State of CALIF. described

as LOTS 104, 105, 106, 107, 108 and 109 PEBBLE BEACH TRACT UNIT ONE
according to the map thereof filed in the Office of the County Recorder
of Del Norte County, California on October 30, 1926 in Book 2 of Maps, page
43.

Dated November 6, 1998

[Signature]
MARILYN

Signature on File

STATE OF CALIFORNIA
COUNTY OF DEL NORTE

On November 6, 1998

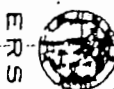
me, ROSE S. WILSON

personally appeared MARILYN M. YOUNG

personally known to me (or proved to me on the basis of satisfactory
evidence) to be the person(s) whose name(s) is/are subscribed to the
within instrument and acknowledged to me that he/she/they executed the
same in his/her/their authorized capacity(ies), and that by his/her/their
signature(s) on the instrument the person(s) or the entity upon behalf of
which the person(s) acted, executed the instrument.
WITNESS my hand and official seal.

Signature

ROSE S. WILSON, NOTARY PUBLIC



ROSE S. WILSON

Comm. #1073179

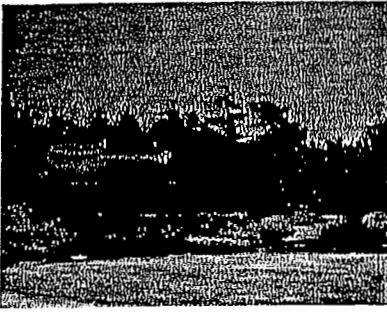
NOTARY PUBLIC

DEL NORTE COUNTY, CALIFORNIA

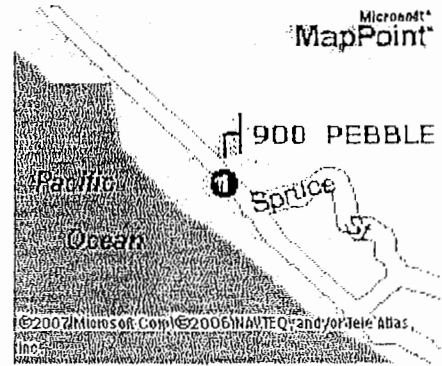
My commission expires Sept. 21, 2000

BOOK 497 PAGE 657

LISTING DETAIL



MLS # 60955
 Status ACTIVE
 Type SINGLE FAMILY
 Address 900 PEBBLE BEACH
 Address 2
 City CRESCENT CITY
 State CA
 Zip 95531
 Area CRESCENT CITY
 Class RESIDENTIAL
 Asking Price \$1,100,000



GENERAL

# of Bedrooms	4	Number of Acres	1.00	Water/Sewer	Public Wtr Swr
# of Bathrooms	2	Zoning	r1b6-rca-2(wb)	Year Built	1977
View	Ocean View	Paved Streets Y/N	Yes	Mobile Size	?
Levels	2 Story	Approx Lot Dimensions		Mobile ID#	
Garage Type	Detached Garage	Subdivision	Unknown	Mobile Model	
Garage Capacity	2	School District	Other	Mobile Home Park	
SQFT	1501 - 2000	Tax ID		Mobile Rent \$	
Heating	Other	Approx SqFt	1986	Mobile Space #	
		Price Per SQFT	553.88		

FEATURES

TOPOGRAPHY	Level	EXTERIOR Redwood	INTERIOR Bath-Master, Bay Window, Cabinets
EXTERIOR CONDITION	Excellent	SEWER Public Water, Sewer Connected	R FEATU In Garage, Cabinets In Utilities,
CONSTRUCTION	Frame	WATER	RES Cable, Carpet, Central Vacuum,
STREET/ROAD INFORMATION	Paved	UTILITIES Cable, Electric, Stove-Electric	Drapes/Curt/Blinds, Extra Storage,
	?	EXTERIOR Decking Open, Fencing/Partial,	Fan-Celling, Floors-Tile, Garage
		FEATURE Garden Area, Gutters, Kennel,	Door Opener, Lighting-Recess,
		S Landscaped, Lighting, Patio/Open	Smoke Detector, Utility Closet,
		, Sprinkler System	Utility Room, Walk-in Closets, Walk
			-in Shower, Windows-Storm
			APPLIAN Compactor, Dishwasher, Oven/Built
			CES

REMARKS

EXCEEDING THE HIGHEST EXPECTATIONS, THIS PEBBLE BEACH HOME DEFINES CHARM, CHARACTER AND QUALITY, IMPECCABLY REFURBISHED. WALK 100 FT. TO OCEAN. VIEW THE SUNSETS FROM EACH LARGE WINDOW FRONT. UNIQUE TRAVERTINE FLOORS, GOURMET KITCHEN. OPEN BUT INTIMATE FLOOR PLAN WITH TASTEFULLY USE OF WOODS AND STONE. SPECIAL LIGHTING WITH DIMMERS. BEAUTIFUL LANDSCAPING SURROUNDS THIS MAGNIFICANT HOME. UNPARALLED VIEWS OF CASTLE ROCK AND PACIFIC OCEAN.



SHIRLEY A SELMAN
 (707) 218-5845
 shirlselman@charter.net

CENTURY 21
 HAMILTON REALTORS
 CRESCENT CITY, CA 95531



8/17/07

TO: ERNIE PERRY

THE RESIDENCE AT 900 LEASE BEACH
IS FOR SALE. (MR. Woods OLD PLACE)

THE REACTOR HAS IT LISTED WITH
PUBLIC WATER + SEWER. COULD YOU
DOUBLE-CHECK THIS AND IF IT IS
CORRECT LET ME KNOW WHEN THE
CONNECTIONS WERE MADE.

I'VE ATTACHED THE REACTORS
INFO. SHEET,

#954-6923

Signature on File

THANKS

JAMES SNOW
601 SPRUCE ST.
C.E. CA.

RECEIVED

AUG 17 2007

DN COUNTY BUILDING INSPECTION

FRI 8/17/07

① I TURNED IN TO Co. AT APPROX. 10:15 AM.

② * GRIE CALLED ME AT 11:35 WITH THE ANSWER
"1978-79" - WE DISCUSSED OR BUILT 1979 = "YEAR"
THAT'S ABOUT RIGHT."

BUT THERE'S SOMETHING IN HIS VOICE TONE - SOMETHING
WRONG? = (REF. HEIDT TOLD ME THE DAMS WERE REMOVED
BECAUSE WATER LEVEL WAS AFFECTING HIS SONIC SYSTEM ???
ALWAYS BEFORE IT WAS "FLOODING HIS DRIVEWAY" ???)

DEL NORTE COUNTY COMMUNITY DEVELOPMENT DEP
981 H STREET, SUITE 110
CRESCENT CITY, CA 95531

NOTICE OF ACTION

EXHIBIT NO. 12

APPEAL NO.

A-1-DNC-07-036

TRASK

NOTICE OF FINAL LOCAL
ACTION & COUNTY STAFF
REPORT (1 of 17)

- I. Notice is hereby given that the Planning Commission of Del Norte County took the following action on August 1, 2007 regarding the application for development listed below:

Action: ☒ Approved ☐ Denied ☐ Continued ☐ Recommended EIR
☐ Forwarded to Board of Supervisors

Application Number: B28832C

Project Description: Coastal Development Permit for a New Residence

Project Location: 700 Berry Street, Crescent City

Assessor's Parcel Number: 120-035-02

Applicant: Adam and Tami Trask

Applicant's Mailing Address: 915 Murphy Ave, Crescent City, CA 95531

Agent's Name & Address: , ,

RECEIVED

AUG 03 2007

CALIFORNIA
COASTAL COMMISSION

A copy of any conditions of approval and/or findings adopted as part of the above action is attached.

- II. If Approved:

☒ This County permit or entitlement serves as a Coastal permit. No further action is required unless an appeal is filed in which case you will be notified.

This County permit or entitlement DOES NOT serve as a Coastal permit. Consult the Coastal Zone Permit procedure section of your NOTICE OF APPLICATION STATUS or the Planning Division of the Community Development Department if you have questions.

- III. Notice is given that this project:

Is not appealable to the California Coastal Commission, however, a local appeal period does exist.

☒ Is appealable to the California Coastal Commission.

☒ Any appeal of the above decision must be filed with the Clerk of the Board of Supervisors by August 13, 2007 for consideration by the Board of Supervisors.

☒ Any action of the Board of Supervisors on this item may be appealed to the California Coastal Commission within 10 working days or 21 calendar days subject to the requirements of Chapter 21.52 DNCC and Coastal Regulations.

Must be forwarded to the California Coastal Commission for final action. You will be notified of its status by the Coastal Commission Office.

Is not subject to Coastal Commission regulations, however, a local appeal process is available. Written appeals must be filed with the Clerk of the Board of Supervisors by 11/17. Consideration will be by the Board of Supervisors.

Requests for deferment of road improvement standards or for modification of road improvement standards must be filed in writing with the Clerk of the Board of Supervisors by August 13, 2007, with a copy provided to the Secretary of the Planning Commission. Consideration will be by the Board of Supervisors.

Parcel map must be filed within 24 months of the date of approval.

Record of Survey and new deeds must be filed within 24 months of the date of approval.

New deeds must be filed within 24 months of the date of approval.

EXTENSIONS – MAJOR & MINOR SUBDIVISIONS OR BOUNDARY ADJUSTMENTS – Maps (or Records of Survey/Deeds) must be filed within 12 months after the original date of expiration.

NOTICE – SECTION 1.40.070

The time within which review of this decision must be sought is governed by the California Code of Civil Procedure, Section 1094.6, and the Del Norte County Ordinance Code, Chapter 1.40. Any petition seeking judicial review must be filed in the appropriate court not later than the 90th day following the date on which this decision was made; however, if within 10 days after the decision was made, a request for the record of the proceedings is filed and the required deposit in an amount sufficient to cover the estimated cost of preparation of such record is timely deposited, the time within which such petition may be filed in court is extended to no later than the 30th day following the date on which the record is either personally delivered or mailed to you or your attorney of record.

FISH AND GAME FILING FEES

Projects subject to CEQA are also subject to the following fees as required by the California Department of Fish and Game:

Applicable Fee - 11/17 ___Neg. Dec. (\$1,850) ___EIR (\$2,550) ___Exempt

This fee is due and payable to the County Clerk's Office. If not paid within 5 working days of the date of action of the Planning Commission, your project may be invalid by law (PRC 21089(b)) and will be referred to Fish and Game's Department of Compliance and External Audits in the Clerk's monthly deposit and report to Fish and Game.

ATTENTION APPLICANT

As a subdivider or adjuster of property, this notice is to advise you that all taxes must be paid in full prior to the recordation of your map or deeds. If the map or deeds are filed after December 16th, you must pay all taxes due PLUS NEXT YEAR'S TAXES before the map or deeds can be recorded.

If you have any questions regarding the payment of taxes, call the Del Norte County Tax

Agent: None

APP# B28832C

STAFF REPORT

APPLICANT: Aadam and Tami Trask

APPLYING FOR: Coastal Development Permit for a New Residence

AP#: 120-035-02

LOCATION: 700 Berry Street, Crescent City

PARCEL(S)

SIZE: .80 acre

EXISTING

USE: Vacant

EXISTING

STRUCTURES: None

PLANNING AREA: 7

GENERAL PLAN: UR (6/1)

ADJ. GEN. PLAN: Same

ZONING: R1B6 Zone 2

ADJ. ZONING: Same

1. PROCESSING CATEGORY: NON-COASTAL APPEALABLE COASTAL X
NON-APPEALABLE COASTAL PROJECT REVIEW APPEAL

2. FIELD REVIEW NOTES: DATE: 1/6/06 HEALTH DEPT X BUILDING INSP X
PLANNING X ENGINEERING/SURVEYING X

ACCESS: Keller Avenue

ADJ. USES: Residential and Marhoffer Creek Drainage

TOPOGRAPHY: Generally Flat with Steep Drop-off DRAINAGE: Surface

DATE OF COMPLETE APPLICATION: July 11, 2007

3. ERC RECOMMENDATION: CEQA Class 3 Exempt. Approval with conditions.

4. STAFF RECOMMENDATION:

Project Description

Aadam and Tami Trask have submitted a Coastal Development Permit to construct a single-family residence and detached accessory building on their undeveloped parcel. The subject parcel is located at the southwest corner of Keller Avenue and Berry Street, which is currently a paper street. Primary access to the parcel will be from Keller Avenue, off of Pebble Beach Drive. The parcel is comprised of six lots approximately 40 feet wide by 158 feet long (lots 104 through 109) which were created as part of the Pebble Beach Tract in October 11, 1926 (Book 2 of Record of Surveys Page 43). A copy of the Assessor's Parcel Map for the project area is attached (EXHIBIT A). The parcels and the access road alignments predate the Coastal Act. The combined acreage of the parcels is 37,920 square feet or .87 acre. The project site is approximately 500 feet from the shoreline and from the coastal bluffs along Pebble Beach Drive.

There are intervening residences between the proposed building site and Pebble Beach Drive. The project site is at 40 feet (msl) and is located outside of any flood hazard area, or tsunami run-up. The proposed building site portion of the parcel is relatively flat, less than 10% slope. The parcel breaks, as shown on the plot plan (Exhibit B) prepared by Lee Tromble Engineering, beyond the building site toward the north with slopes of 20 to 25%.

The project site is at the periphery of existing residential development. Existing sewer collection lines and public water lines are in place and will provide services to the proposed residence. The area north of the project site is wooded and contains Marhoffer Creek and its associated wetlands. There is an intervening parcel between this project site and the larger privately owned parcel containing Marhoffer Creek. The building height maximum for this zone district is twenty-five feet; therefore the proposed residence will not be visible from Pebble Beach Drive due to the intervening residences. The project site is not located in a designated highly scenic area.

The applicants have submitted construction drawings for a two story L-shaped residence. The height of the residence is shown as 23 feet but could be constructed up to the 25 feet maximum height allowed in the R1 Zone District. The submitted elevation drawings show the proposed residence from the south and east and are included as Exhibits C and D. The lower level of the residence has a footprint of approximately 1,696 square feet. An attached two-car garage with storage area accounts for 576 square feet of the area. Access to the garage will be from Berry Street. The remaining 1,120 square feet is set aside for two bedrooms, a bathroom, utility room, entry/living area, and stairway to upper level. The upper level is approximately 1,728 square feet and has a master bedroom/bath, living area and kitchen/dining area. The floor plans are found on Exhibits E and F. The applicants also proposed to construct a 20 feet wide by 20 feet long by approximately 12 high detached accessory building which would be located six feet east of the residence. The applicant has identified the structure as being a storage shed. The structure would have 8 feet high walls, a hip roof to match the residence and a 10 feet wide door entrance. Access to the storage shed will be Keller Avenue. See Exhibits B and C for an illustration and proposed location of structure.

Zoning R1B6 Zone 2

The zone designation for the subject parcel and all parcels which immediately border the parcel is R1-B6 (Single Family Residence – B Combining District – 6,000 square feet minimum lot size). The General Plan Land Use designation for the subject parcel and surrounding area is Urban Residential with up to six dwelling units allowed per acre. The zoning and land use are consistent. The R1-B6 zone district is found in Chapter 21.19 of the implementing zoning of the Local Coastal Plan (LCP). A single-family residence is the principal permitted use in this zone district. Accessory buildings and accessory uses appurtenant to the single-family residence and home occupations are also included in conjunction with the one-family residence. Building height maximum is twenty-five feet and the minimum lot area is to be not less than 6,000 square feet. The proposed residence is a permitted use under Chapter 21.19 of the Del Norte County Code. Attached is Exhibit G that identifies the approximate location of the parcel on the applicable zoning map.

Background/History

As mentioned above, the six lots approximately 40 feet wide by 158 feet long (lots 104 through 109) of the listed Assessor's Parcel Number 120-035-02 were created as part of the Pebble Beach Tract in October 11, 1926 (Book 2 of Record of Surveys Page 43). The lots have set undeveloped and have been through multiple ownerships since their creation.

In 1979 as part of the Local Coastal Program (LCP) preparation, the County conducted a Special Study for the Marhoffer Creek area. This study was based on existing information and was spot checked in the field. Maps of the approximate location of Marhoffer Creek and its wetlands were included in the LCP. Policies of the Special Study recognize that the mapping included in the LCP is approximate at best and were based on limited information. The Findings section of the study state that "...the boundaries shown are not precise delimiters of the wetland, but indicate zones of transition. Specific findings on a parcel by parcel basis will be required for the determination of a building site or septic tank leach fields in or near the wetland boundary zone". Furthermore, the Special Study further recommends that "(I)n areas where the boundary of the Marhoffer Creek wetland is in doubt a detailed survey of a parcel and the location of the wetland shall be required to determine the suitability of said parcel for dwelling or other building site and sewage disposal system before the permit is issued."

In January of 1993, Karen Theiss and Associates prepared a more detailed mapping of the lower watershed of the Marhoffer Creek area. The mapping effort was sponsored by the Coastal Conservancy. The mapping was approximated on topographic maps prepared by Richard B. Davis surveying. The topography maps are based on two foot contours and are a reasonable representation of the area, although the dense trees and brush obscure the aerial photography making elevation modeling more difficult and subject to some error. Spot elevations in cleared areas (at that time) are fairly accurate. Attached is Exhibit H which is the applicable area of the Theiss mapping for the project site. This map shows the parcel to have an elevation range of approximately 40 feet in the southwest corner and somewhere between ten and twelve feet in the very north of the parcel. The mapping also indicates that the southwest corner had been previously disturbed at that time and that the bulk of the center of the parcel contains a mixed thicket of spruce, alder, and cascara. The northern quarter of the parcel is mapped in the Theiss report as being part of the freshwater marsh of Marhoffer Creek.

In 2004 the owner at that time, Richard Anderson, applied for a building permit to construct a single-family residence. The plot plan (which is the same as the plot plan initially submitted by the current applicants and is Exhibit I) for the building permit shows the wetland mapping from the Theiss study (referred to as the Conservancy mapping, the funding agency). The building permit was not issued as the application was held incomplete until such time as a biological assessment for the parcel was prepared as recommended in the two reports mentioned above. The Anderson permit application was never issued.

In December of 2005, the current owners (Aadam and Tamara Trask) applied for a similar building permit using the same plot plan as submitted by Mr. Anderson. The Trask submittal included a Biological Assessment and Wetland/Riparian Delineation, Parcel #120-035-02, Keller Avenue dated September 2005 prepared by Galea Wildlife Consulting (GWC) for the subject parcel. Frank Galea is the primary Biological Consultant and owner of GWC, established in 1989. GWC's Assessment included mapping shows the proposed building site to be 85 feet from the wetland. Therefore the project was held incomplete awaiting a further analysis prepared by a qualified biologist to address the seven standards applicable to a proposed buffer area of less than 100 feet. That analysis has been submitted and is included as part of the staff report and is summarized in the next section.

Biological Assessment

In the September 2005 Assessment, GWC described the southwest portion of the parcel as being at the same elevation as Keller Avenue, however most of the remainder of the property drops into the Marhoffer Creek drainage. The drop-off is relatively steep, at 20 to 25 percent, thus drainage toward the north is excellent. Mr. Galea's report concluded that the upland portion of the property consists of very young pine, spruce (*Picea sitchensis*) and chitum (*Rhamnus purshiana*) trees, with an understory of huckleberry (*Vaccinium ovatum*), Himalayan blackberry (*Rubis discolor*) and swordfern (*Polystichum munitum*). Below the upper area, to the north, the vegetation becomes far more dense and almost all of it is covered with an infestation of English Ivy (*Hedera helix*), which covers the understory, herbaceous and shrub layers and is invading the hardwood canopy above. The ivy grows down to and partially into the area delineated as wetland by Mr. Galea.

The biologist states in his report that he visited the site several times in March of 2005 to complete a wetland delineation. The delineation between wetland and non-wetland habitats was somewhat discernable based upon vegetation and the site's visual hydrology. To validate the extent of wetland habitats, sample plots ten feet in diameter were assessed using the routine wetland delineation method. Sample plots were set on either side of the apparent line between wetland and upland habitats along an axis perpendicular to the watercourse, and sampling continued until definitive results demonstrated one sample in wetland and an adjacent sample in upland along the axis. Plots were also used to determine if wetland conditions existed adjacent to the watercourse. Mr. Galea conducted three transects to determine the extent of wetlands or creeks within or adjacent to the property. The project site was also reviewed for its potential for: (a) demonstrable use of the area by wetland-associated fish and wildlife resources; (b) related biological activity; and (c) wetland habitat values, as recommended by the California Coastal Commission.

According to GWC, a Class II watercourse comes into the project parcel from the east. This watercourse feeds into the freshwater marsh area located in the northwest corner of this parcel. The watercourse does not extend beyond the adjacent parcel and is not visible on the Keller Avenue right of way. The general topography shown on Exhibit H was confirmed in the field. The watercourse appears to be seepage out of the slope and has no defined channel or course beyond the adjacent parcel. Riparian vegetation is not evident; the entire area is primarily

English ivy. The ivy is currently very invasive at this site and will eventually choke out the existing native plants, including some overstory trees such as chitum, resulting in a lowered buffer of vegetation than currently exists.

Also attached is Exhibit J which is photo of the area taken from Google Earth that approximates very closely the location of the applicants parcel(s). This aerial photo shows the adjacent residence and the area that has been cleared for that residence and its yards. The rear area of the adjacent parcel has been cleared for a distance of 40 to 70 feet from the building. The photo demonstrates that the adjacent residence may actually be placed closer to the wetland areas than the proposed residence of the applicants and that the cleared area behind the adjacent residence extends some 40 to 70 feet from the building toward the wetlands.

The recommended setback from wetlands is 100 feet within the standards of the County Local Coastal Plan. This project would not comply with the recommended setback of 100 feet. The LCP also provides that a buffer of less than 100 feet may be utilized where it can be determined that there is no adverse impact on the wetland. The Coastal Commission has provided guidance on the criteria for reviewing proposed development adjacent to wetland and other environmentally sensitive habitats (ESHA) and a standard of review for reduced buffers. The applicable LCP policies regarding reduced buffers are as follows:

The Marine and Water Resources Policy VII.D.4f

f. Development in areas adjacent to environmentally sensitive habitat areas shall be sited and designed to prevent impacts which could significantly degrade such areas, and shall be compatible with the continuance of such habitat areas. The primary tool to reduce the above impacts around wetlands between the development and the edge of the wetland shall be a buffer of one-hundred feet in width. A buffer of less than one-hundred feet may be utilized where it can be determined that there is no adverse impact on the wetland. A determination to utilize a buffer area of less than one-hundred feet shall be done in cooperation with the California Department of Fish and Game and the County's determination shall be based upon specific findings as to the adequacy of the proposed buffer to protect the identified resource. Firewood removal by owner for on site use and commercial timber harvest pursuant to the CDF timber harvest requirements are to be considered as allowable uses within one-hundred foot buffer areas.

On January 13, 2005, County staff referred the September 2005 report of GWC to the Department of Fish and Game. A copy of the transmittal letter to Fish and Game is included as Exhibit K. The Department responded February 6, 2006, stating that the Department had did not object to a reduced buffer of 66-feet in this particular instance. (That written response is also included as Exhibit L.) Upon receipt of the response from Fish and Game, the project was referred to ERC for their review and comment. The ERC meeting of February 09, 2006, resulted in a request to the applicant that included the directive that a qualified biologist responds to the seven standards of review by the Coastal Commission included in their interpretive guidelines for buffers of less than 100 feet.

In response, the County has received two addendums and a letter from GWC. The first addendum was submitted on March 7, 2007 and is titled Addendum to Biological Assessment and Wetland/Riparian Delineation Parcel #120-035-02, Keller Avenue, March 2006 (sic). The second addendum was received in April 2007 and is titled Addendum to Biological Assessment and Wetland/Riparian Delineation Parcel #120-035-02, Keller Avenue, April 2007. A letter was submitted on May 1, 2007 addressed to staff member Heidi Kunstal which describes communication between Mr. Galea and staff from the DFG and California Coastal Commission with regard to the project. Copies of these documents are included in their entirety as part of this staff report.

A discussion of the standards for a reduced width of a buffer is as follows:

1. Biological significance of adjacent lands: Lands adjacent to a wetland, stream, or riparian habitat vary in the degree to which they're functionally related to these habitats. The degree of significance would depend upon the habitat requirements of the species in the habitat area (e.g., nesting, feeding, breeding or resting). In this particular instance the subject property is located south of the Marhoffer Creek freshwater marsh. To the west and south is existing residential development located on city lots and served with both public water and sewer. To the east are vacant previously subdivided lands similar to the subject property. The terrain elevation change from the Marhoffer wetland to the residential site "... acts as a natural barrier between the home site and the swamp. Additionally, upland vegetation between the highest upland portion in the southwest corner of the property and the wetland area is also dense brush, most of it covered in invasive English Ivy." The consulting biologist concludes that "(n)o function relationships between the property and species from the wetland are likely (to) exist. There is no preferred habitat on the property which would cause wetland species to 'spend a significant portion of their life cycle on adjacent lands.' A topographic and vegetative buffer exists between the house site and the wetland area." Furthermore, the biologist concludes that the 85 foot buffer is adequate for the buffer for the wetland and the 60 foot buffer is adequate for the watercourse considering there is no functional relationship between species and the property.
2. Sensitivity of species to disturbance: The width of the buffer area should be based, in part, on the distance necessary to ensure that the most sensitive species of plants and animals will not be disturbed significantly by the permitted development. Such a determination should be based on the following;
 - a. Nesting, feeding, breeding, resting or other habitat requirements of both resident and migratory fish and wildlife species.
 - b. An assessment of the short-term and long-term adaptability of various species to human disturbance.

In this particular instance GWC determined that the most likely species which could be disturbed in the ESHA would be avian species, including osprey, egrets, wood ducks and other birds. A historic osprey nest existed in the wetland area, well north of the property, at

one time. However, the nest apparently blew out some years ago and no new nests are known of. As homes are already built in the immediate area, including the adjacent lot, the biologist concludes that there would be no significant increase in disturbance. Therefore, short-term and long-term, those species which are adaptable to human presence and disturbance would not be affected. Species which do not tolerate human encroachment would not be in the immediate area as encroachment has already occurred. The watercourse is insufficient to directly support fish or fish habitat. Marhoffer Creek was surveyed for aquatic species by electro shocking as part of the Theiss Report. Two species of fish and one amphibian (pacific giant salamander) were found. The two fish species were three spine stickleback and staghorn sculpin (only found near the mouth of the creek proper). None were mapped in or near the project site.

3. Susceptibility of parcel to erosion. The width of the buffer area should be based, in part, on an assessment of the slope, soils, impervious surface coverage, runoff characteristics, and vegetation cover of the parcel and to what degree the development will change the potential for erosion. A sufficient buffer to allow for the interception of any additional material eroded as a result of the proposed development should be provided. As previously described, the proposed building site is relatively flat and appears to be relatively stable with no signs of erosion or other soil movement. Activities during construction could create the potential for sediment control during and for a period of time after construction. Conditions are recommended to be imposed to ensure that erosion control measures are implemented are included in the staff recommendation.
4. Use of natural topographic features to locate development. Hills and bluffs adjacent to environmentally sensitive habitat areas should be used, where feasible, to buffer habitat areas. Where otherwise permitted, development should be located on the sides of hills away from environmentally sensitive habitat areas. The building envelope has been shifted to the southwest corner of the parcel. This is the relatively flat portion of the property and beyond the natural break in the terrain. The ESHA areas are located below the break in slope. This natural topographic feature is being utilized in locating the proposed building site.
5. Use of existing cultural features to locate buffer zones. Cultural features, (e.g., roads and dikes) should be used, where feasible, to buffer habitat areas. Where feasible, development should be located on the side of roads, dikes, irrigation canals, flood control channels, etc., away from the environmentally sensitive habitat area. Placement of the residential structure and the accessory building in the southwest corner puts these items in close proximity to other existing development. This placement also limits offsite improvements to areas that are relatively already disturbed by grading and access improvements. This placement limits potential impacts on the ESHA and their buffer areas.
6. Lot configuration and location of existing development. Where an existing subdivision or other development is largely built-out and the buildings are a uniform distance from a habitat area, at least that same distance will be required as a buffer area for any new development permitted. However, if that distance is less than 100 feet, additional mitigation measures

(e.g., plant of native vegetation which grows locally) should be provided to ensure additional protection. The existing residential development on the lot next door is approximately the same distance, or slightly less from the freshwater marsh wetland as the proposed project. The rear yard for the adjacent residence extends some 40 to 70 feet beyond the building toward the freshwater marsh. The biological consultant states that the vegetation within the buffer area is being encroached upon by English Ivy. The consultant recommends that mitigation be considered that would require removal of the ivy and replacement with native vegetation such as red alder and huckleberry between the ESHA and the homesite.

Staff is recommending that as a condition of approval of the building permit/CDP, that the property owners consent to and sign a Notice of Merger for the old subdivision lots, lots 104 through 105. This merger along with other measures will significantly reduce the expectations of any future owner to attempt to develop the other lots within this ownership. Staff is also recommending that the existing front yard remain facing to the west and the frontage along Keller remain a side yard thereby allowing the consideration of an altered building layout which moves the proposed residence closer to Keller Avenue and therefore farther away from the ESHA (see Exhibit B). The residence and outbuilding are now to be 12 feet six inches from Keller Avenue as opposed to the original design placing the residence 25 feet from Keller Avenue. This places the proposed building 100 feet from the wetland as mapped by Galea. The residence at its closest point is now 80 feet from the thread of the watercourse and the outbuilding at its closest point is not 65 feet from the thread of the watercourse.

7. Type and scale of development proposed. The type and scale of the proposed development will, to a large degree, determine the size of the buffer area necessary to protect the environmentally sensitive habitat area. For example, due to domestic pets, human use and vandalism, residential development may not be as compatible as light industrial development adjacent to wetlands, and may therefore require wider buffer areas. However, such evaluations should be made on a case-by-case basis depending upon the resources involved, and the type and density of development on adjacent lands. As previously noted there is an existing residence next door that is the same distance or slightly less than the proposed residence location from the wetland. Also as previously discussed above, there is existing development to the west of this project site that is much closer to the Marhoffer Creek wetland (see Exhibits H and J). The lot configuration, actually several old subdivision lots combined into one assessors parcel, combined with the actual location of the wetlands and the watercourse confine the proposed building site to the southwest corner area. Due to the lot configuration, the break in slope, it would not be possible to locate the development 100 feet from ESHA which spans the entire width of the parcel. The type and scale of the proposed development is consistent with that of the adjacent residential development.

Wildland Fire – Urban Interface

The California Department of Forestry and Fire Protection submitted a letter on June 18, 2007, making recommendations on the proposed residence. The subject property is mapped by CDF as being a moderate fire hazard zone. The CDF comments address the minimum defensible

space requirements. Their letter is attached and incorporated into this staff report. The letter recommends that the residence have a "30 foot fuel break around the home" and that "(w)ithin in (sic) the 30-100 foot zone, limbing of trees and removal of some surface shrubs will be necessary to affect a fire safe condition. This zone should remain well-shaded and protection of riparian habitat can be done through proper landscape management." These recommendations, in part will affect the buffer areas discussed above.

Marine and Water Resources Policy VII.D.4f does specifically permit firewood removal by owner for on site use and commercial timber harvest pursuant to the CDF timber harvest requirements are to be considered as allowable uses within one-hundred foot buffer areas. In this particular instance CDF is specifying that a 30 feet clear zone be established around the residence and beyond the 30 feet clear zone that vegetation be managed to affect a fire safe condition through limbing of trees and removal of some surface shrubs. The degree of vegetation management proposed by CDF is less intrusive than a timber harvest plan.

Staff is recommending that the buffer area between the proposed buildings be modified to allow these defensible space requirements within portions of the buffer area. To mitigate in part for these activities staff is recommending the merger of the subdivision lots into one site and that the buffer area apply to all of the remaining merged parcel on the north side of the watercourse and beyond the wetland boundary.

To ensure that (1) the buffer areas are established and applied to the subject property, and (2) to protect the ESHA from significant degradation resulting from the proposed development, and (3) that the defensible space requirements of CDF are applied only within the area around the residence and outbuilding staff is recommending that a deed restriction be placed upon the property. This deed restriction would restrict the property labeled as "Area B" within the ESHA and the included portion of the buffer area to open space except to permit within 100 feet of the structures limbing of trees and removal of surface shrubs pursuant the fuel treatment guidelines of CDF (attached to the letter from CDF). The portion of the open space area labeled "Area A", 30 feet from the residence and outbuilding toward the ESHA, will be permitted to remove flammable vegetation and other combustible growth within 30 feet of each building allowing single specimens of trees or other vegetation is to be retained provided they are well-spaced, well pruned, and create a condition that avoids spread of fire to other vegetation or to a building or structure. A fuel treatment plan is to be reviewed by CDF prior to final issuance of the building permit. (See Exhibit M identified "Area A" and "Area B").

The buffer and the ESHA could be adversely affected by the development if non-native, invasive plant species were introduced from landscaping at the site. Introduced invasive exotic plant species could spread into the ESHA, disrupting the value and function of the adjacent ESHA. The applicant has not proposed a specific landscaping plan as part of the proposed project. As additional mitigation to reduce the potential that the ESHA is not adversely impacted by any future landscaping of the site, a condition has been recommended that no plant species listed as problematic and/or invasive by the California Native Plant Society, the California Invasive Plant Council, or by the State of California shall

be employed or allowed to naturalize or persist at the site of the proposed development. No plant species listed as a 'noxious weed' by the State of California or the U.S. Federal Government shall be utilized within the property.

Environmental Review

Pursuant to State California Environmental Quality Act (CEQA) Guidelines Section 15303 (a) One-single family residence and (e) an appurtenant structures, the project qualifies as categorically exempt from the provisions of CEQA. As described above, the project has been located and conditioned so as to not have a significant effect on the environment.

Archeology

Due to the required excavation for utilities and foundation footings, a cultural resources survey was required. A background search, a records search, and a field survey were conducted by James Roscoe, a cultural resources consultant. The pre-field search and field survey conducted on the property did not uncover any significant cultural resources within the proposed project area. The project was been discussed with a representative of the Smith River Rancheria. The Rancheria recommended that cultural monitor be present during ground disturbing activities associated with the building of residence and the out building. A condition is being recommended that the applicant contact the Smith River Rancheria two weeks prior to excavation of footings. The applicant will also be responsible to have a cultural monitor on site during excavations and is responsible for any time and expenses (if any) of the observer. The County will also apply the standard condition regarding inadvertent find of cultural resources in the event that any resources are uncovered during construction. Should the Rancheria determine that they do not wish to have an observer present; a written statement to that effect will meet the proposed condition.

Light Glare

Although the current LUP does not have any specific policies related to light emissions and the night sky, the General Provisions of Title 21 – Coastal Zoning includes a section related to lighting (§21.46.050). In order to minimize potential glare from any exterior lighting, a condition has been recommended that requires that all exterior lights be the minimum necessary for the safe ingress and egress of structures and be low-wattage, non-reflective, shielded, and be cast downward.

Visual Resources and Public Access

The proposed development is on the periphery of an existing residential area and subdivision. The property is not located in a designated highly scenic area as listed in the LCP. The proposed project will not involve substantial alteration of the natural landform nor will the site be visible from the shoreline or public road. There is no public access to the shoreline affected by this project nor are there any established trails on the property that provide public access to the shoreline. The proposed development will not create any new demand for public access or otherwise significantly impact any existing public access.

Constructive Notice to Subsequent Owners

A condition is recommended which requires the recording of a Notice of Conditional Approval which will formalize acceptance and acknowledgement of the conditions of approval by the applicants and provide constructive notice to subsequent owners and other parties of interest.

Recommendation

Staff recommends that after consideration of the staff report and its attachments, and after receipt of any public comment and the consideration of such comment, the Commission adopt the recommended findings and approve the issuance of the building permit/Coastal Development Permit (CDP) for the subject parcel with the recommended conditions listed below:

5. FINDINGS:

- A. The Commission finds that pursuant to the Marine and Water Resources policy 4f of the County's certified Local Coastal Program, a determination to utilize a buffer area of less than one-hundred feet has been done in cooperation with the California Department of Fish and Game;
- B. A biological assessment(s) has been prepared regarding the biological significance of adjacent lands, sensitivity of species to disturbance, the susceptibility of the parcel to erosion, and the type and scale of the development proposed. The proposed buffer and deed restrictions in conjunction with the implementation of the listed conditions requiring erosion and sedimentation control and the prohibition of the planting of invasive exotic species is adequate to protect the environmentally sensitive habitat adjacent to the project site from possible disruption generated by the development proposed;
- C. The project, as conditioned and sited on the parcel, is consistent with the policies and standards of the Local Coastal Plan Land Use Plan and Title 21 Zoning for a R1B6 Zone 2;
- D. The building site has been relocated as far as possible from the ESHA and still allow the residence and outbuilding to be in compliance with the standards for the R1B6 zone district;
- E. A condition of approval of the building permit/CDP has been included, that the property owners consent to and sign a Notice of Merger for the old subdivision lots, lots 104 through 105, legally merging the subject lots into one building site;
- F. The Notice of Conditional Approval which will formalize acceptance and acknowledgement of the conditions of approval by the applicants and provide constructive notice to subsequent owners and other parties of interest; and
- G. *** Amended per PC Mtg 9/1/07 *** The Planning Commission finds that based on the staff report, its attachments and the project design that for the issuance of this building permit for a single-family residence (Approximately 1700 sq. ft. foot print) and appurtenant structure (400 sq. ft. foot print) has been sited and designed to prevent

impacts that would significantly degrade the ESHA without otherwise substantially denying the reasonable use of the residentially zoned parcel; *** Amended per PC Mtg 9/1/07 ***

- H. ** Added per PC Mtg 9/1/07** The building site and immediate surrounding area has been field checked and verified by the County Engineering staff regarding building location and terrain slopes (See Exhibit N attached). The building site slopes conform to County standards for development on slopes of 30% or less. The building site for the residence is on slopes of 8% to 12% and the accessory building is on slopes of 19%. ** Added per PC Mtg 9/1/07**

6. CONDITIONS:

1. The project shall be developed in substantial accord with the submitted plot plan and elevation plans as submitted;
2. The project shall comply with the requirements of the California Fire Code applicable at the time of complete application (7/2007);
3. Prior to issuance of building permit to construct the residence and out building, an engineered grading and drainage plan for on-site and any off-site drainage improvements (if any) shall be submitted to the Community Development Department, Engineering and Surveying Division, for review and acceptance. The plan shall contain provisions for temporary sediment and erosion control and permanent sediment and erosion control post construction. The plan shall incorporate design elements and/or Best Management Practices (BMPs) which will serve to minimize the volume and velocity of stormwater runoff leaving the developed site, and to capture sediment and other pollutants contained in storm water runoff from the development, by facilitating on-site infiltration and trapping of sediment generated from construction. The plan shall address roof drains and their discharge and other impervious surfaces. The plan shall also include road improvements of Keller Avenue and Berry Street. Keller Avenue shall be widen from the intersection of Keller and Spruce Avenue and extend to the easterly corner of the property on Keller Avenue a distance of 158 feet. Keller Avenue shall be 20 feet wide with 4 inches compacted thickness of 3/4 minus crushed rock with 4 foot graded shoulders. Berry Street shall be improved for a distance of 100 feet from the intersection of Keller and Spruce for a width of 20 feet. It shall be 4 inches compacted thickness 3/4 minus crushed rock with 4 feet graded shoulder, and drainage ditches where needed. All improvements on Keller Avenue and Barry Street shall be located within the center of the 40 feet wide right-of-way. The plan shall be prepared by a California Registered Civil Engineer and submitted to the County Engineer for approval and include all calculations for surface water runoff. All improvements called for in the plan shall be the responsibility of the developer. The right-of-ways shall be monumented on at least one side at critical points (point of curve, point of tangent) by a person licensed to practice land surveying in the State of California. An encroachment permit shall be obtain from the Del Norte County Engineering and Surveying Division for any work within the Keller Avenue and Berry Street right-of-way;
4. The detached out building is prohibited from any rental or lease of the detached unit separate from rental of the main residential structure is prohibited and the use of the

detached workshop as a residence with cooking or kitchen facilities is prohibited. The detached workshop shall not be converted into a residence or second unit;

5. Exterior lighting is required to comply with Title 21 Coastal Zoning – General Provisions- Chapter 21 Section 46.050 which requires that all direct light be confined to the subject premises. All exterior lights, including any lights attached to the outside of the buildings, shall be the minimum necessary for the safe ingress, egress, and use of the structures, and shall be low-wattage, non-reflective, shielded, and have a directional cast downward;
6. No plant species listed as problematic and/or invasive by the California Native Plant Society, the California Invasive Plant Council, or by the State of California shall be employed or allowed to naturalize or persist at the site of the proposed development. No plant species listed as a 'noxious weed' by the State of California or the U.S. Federal Government shall be utilized within the property;
7. No development, as defined in Section 21.04.195 of Del Norte County Code shall occur within the areas labeled "AREA A" and "AREA B" on Exhibit M attached to this staff report except for:
 - A. The portion of the open space area labeled "Area A", 30 feet from the residence and outbuilding toward the ESHA, will be permitted to remove flammable vegetation and other combustible growth within 30 feet of each building allowing single specimens of trees or other vegetation is to be retained provided they are well-spaced, well pruned, and create a condition that avoids spread of fire to other vegetation or to a building or structure.
 - B. The area of the property labeled as "Area B" within 100 feet of the permitted structures can conduct the limbing of trees and removal of surface shrubs pursuant the fuel treatment guidelines of CDF including the removal of English Ivy;
8. Prior to final issuance of the building permit, the applicant shall submit for the review and approval of the County, a deed restriction with a legal description and graphic depiction of the portion of the subject property affected by condition 7 above, as generally described above and shown on Exhibit M attached to this staff report. Upon approval by the County, the deed restriction shall be recorded at the applicant's expense;
9. This entitlement is specifically conditioned on the applicant agreeing to indemnify and hold harmless the County of Del Norte, the Planning Commission of the County of Del Norte, the Board of Supervisors of the County of Del Norte, their officers, employees and agents against any and all claims arising out of the issuance of the entitlement and specifically against any expense arising from defending any legal actions challenging the value of time devoted to such defense by County officers, employees and agents and the amount of any judgment, including costs of suit and attorney fees, recovered against the County or any of its officers, employees or agent in such legal action. The County of Del Norte reserves the option to either undertake the defense to the applicant or to tender such defense to the applicant. Should the County tender such defense to the applicant and the applicant fail or neglect to diligently defend such legal action, the County may consider such failure or neglect to be a material breach of this condition and forthwith revoke this entitlement;
10. It is the policy of the County of Del Norte that should any archaeological resources be found during site excavation for the proposed addition, construction activities shall be

halted until an evaluation of the find is made either by a qualified archaeologist or a representative of a local Rancheria or Rancherias;

11. The applicant or their representative shall contact the Smith River Rancheria two weeks prior to excavation of footings in order to allow the Rancheria to have an observer present during the initial excavation when the footings are dug and prior to pouring of the concrete. The applicant is responsible for any charge by the Rancheria for the time and expenses (if any) of the observer. Should the Rancheria determine that they do not wish to have an observer present; a written statement to that effect will meet the intent of this condition; and
12. A Notice of Conditional Approval shall be recorded at the time of issuance of the building permit at the applicant's expense. Such notice shall contain a signature block of the owners of record of the subject property and shall be notarized at the applicant's expense.

** Added per PC Mtg 9/1/07 **

*** Amended per PC Mtg 9/1/07 ***

LEE TROMBLE ENGINEERING

879 J Street, Ste. A
Crescent City, CA 95531

Phone (707) 464-1293

FAX (707) 465-8358

September 19, 2008

Melissa B. Kraemer
Coastal Planner/ Analyst
California Coastal Commission
North Coast District Office
710 E Street, Suite 200
Eureka, CA 95501-1865

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CALIFORNIA
COASTAL COMMISSION

EXHIBIT NO. 13

APPEAL NO.

A-1-DNC-07-036

TRASK

REVISED PROJECT
DESCRIPTION FOR PURPOSES
OF DE NOVO REVIEW (1 of 2)

re: Appeal No. A-1-DNC-07-036

Dear Ms. Kraemer:

In accordance with your request, this is to supplement our May 19, 2008 correspondence with additional information necessary to evaluate Aadam and Tamara Trask's proposal to construct their new single family residence on APN 120-035-02, Del Norte County.

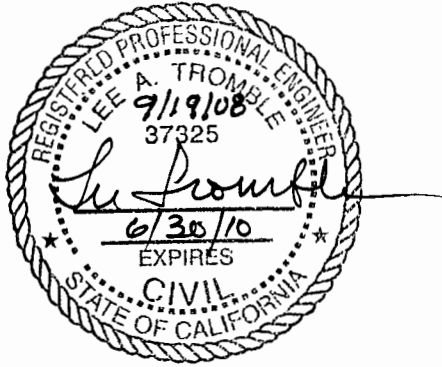
Submitted herewith is the revised vegetation mapping by Galea Wildlife Consulting which includes identification of vegetation within the building footprint which will need to be removed.

The Trask's are proposing to construct the most recently submitted alternative, i.e. the 2134 square foot plan with a garage/shop area of 888 square feet. A copy of the Trask's deed and the original Subdivision Map are submitted herewith. The Trask's are agreeable to merge their (6) lots into one parcel as a condition of approval of their proposal.

With regards to road improvements, Berry Street and Keller Avenue will need to be improved to provide access to the garage and shop, respectively. In accordance with prior conditions of County approval for this project, the right-of-ways would be improved to 20 foot wide roads by 4 inch compacted thickness $\frac{3}{4}$ " minus crushed rock (or County Engineer approved asphalt grindings) with 2 foot graded shoulders on both sides. At minimum, Berry Street will have to be improved from its intersection with Spruce Avenue, a distance of 80 feet north of the southwest corner of the Trask property. Additionally, Keller Avenue will have to be improved a minimum distance of 100 feet east of the southwest corner of the Trask parcel. In my opinion, drainage ditches are not required, given that the soils and topography provide excellent drainage and that adjoining roads of similar construction (with no drainage ditches) have no drainage problems. The roads can be improved to approximately match the present topography with minimal grading.

I trust this provides the supplemental information you requested. If you have any questions or if you need any additional information regarding this matter, please don't hesitate to contact me. Tamara Trask's signature is to authorize the conditional merging of the lots.

Very Truly Yours,



Lee Tromble

Tamara Trask

Tamara Trask

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